

CRR 47 of 2021

Sounak Mondal
Vs.
State of W. B. & Anr.

In Re: An application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973.

Mr. Shekhar Barman
..... For the petitioner
Mr. Rana Mukherjee
Ms. Sujata Das
....For the State
Mr. Sandip Chakraborty
Mr. Rajiv Lochan Chakraborty
Mr. Santanu Talukdar
.....For the Opposite Party No.2

The impugned order dated 25th November, 2020 passed by learned Additional Chief Judicial Magistrate, Bashirhat in connection with G. R. Case No. 1333 of 2020 under Sections 326/354/34 of the Indian Penal Code discharging one of the three accused persons, namely, Kunal Mondal is the subject of challenge in this revisional application.

Mr. Shekhar Barman, learned advocate representing the petitioner submits that the learned court below has mechanically proceeded while recording discharge against Kunal Mondal without issuing any notice for this purpose. According to learned advocate for the petitioner, the de facto complainant has suffered serious prejudice for the non-service of notice upon the de facto complainant against the order of discharge, so made against Kunal Mondal.

Learned advocate Mr. Rana Mukherjee for the State being assisted by Ms. Sujata Das, learned advocate submits that there is no illegality committed in the order impugned, while recording the order of discharge. Adverting to serial no.10 of the charge sheet, learned advocate representing the State submits that the de facto complainant was supplied with necessary information about the materials already collected in this case and that too against how many accused persons.

Learned advocate Mr. Sandip Chakraborty representing the private opposite party no.2 submits that learned court below has rightly allowed the prayer for discharge for want of materials being transpired against one of the accused persons, namely, Kunal Mondal.

The injury report of the victim is brought to the attention of this court, wherefrom it is clear that the victim made a history before the treating doctor as regards the assault committed upon her leading to her trauma on her little finger tip. Victim also stated while giving history of assault that she suffered injury on her scalp by reason of pulling her hairs by the assailants.

The victim admittedly is a relative of the accused persons. There are litigations pending between the parties including the property dispute. The court has considered the statements already collected against the accused persons together with the injury report found in the copy of the case diary produced.

Upon consideration of the materials already collected in the case diary together with the injury report, the learned court

below was absolutely right in recording order of discharge against one of the accused persons, namely, Kunal Mondal, irrespective of his name being found to exist in the F. I. R. Thus for the absence of sufficient materials revealing overt acts being performed, attributable to the act complained of, Kunal Mondal was favoured with discharge on the prayer of the Investigating Officer of this case.

Admittedly charge sheet in this case has been submitted making out a case under Section 326/354/34 of the Indian Penal Code against Biswajit Mondal and Durga Monda. The charge in this case has not yet been framed.

Learned advocate for the petitioner proposes at this stage for a direction so that the charge could be framed expeditiously aiming at ensuring expeditious disposal of the pending case.

For the discussions made above, the order of discharge, as recorded by the learned court below by impugned order dated 25th November, 2020 would as such remain unaltered.

Learned court below is however directed to frame the charge after serving copy, either on the date scheduled for the purpose, or for any reasons whatsoever the same could not be done, the charge may be framed within four weeks thereafter peremptorily, providing sufficient opportunity of hearing to either of the parties to this case. The court below is further directed to proceed with the trial after making commencement of the trial intending to ensure expeditious disposal of the pending case, and if necessary by resorting to steps available under Sections

309 of the Code of Criminal Procedure.

With these directions and observations the revisional application is disposed of.

(Subhasis Dasgupta, J.)