

15.02.2021

6

SB

Ct. No.32

IN THE HIGH COURT AT CALCUTTA

Criminal Revisional Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

C.R.R. 128 of 2020

Md. Nasim

Versus

The State of West Bengal

For the Petitioner : Mr. Apurba Kumar Dutta
Mr. S. Bandyopadhyay

For the State : Mr. Arijit Ganguly
Mr. Sanjib Kumar Dan

Heard on : 15.02.2021

Judgement on : 15.02.2021

Jay Sengupta, J. :

This is an application challenging an order dated 08.08.2019
passed by the learned Additional Sessions Judge, 4th Court,

Asansol, thereby rejecting the prayer of the petitioner seeking the opinion of handwriting expert under section 45 of the Evidence Act for comparing the handwriting present in the F.I.R. with the handwriting contained in admitted documents.

Learned counsel appearing on behalf of the petitioner submits as follows. In the present case although, the victim purportedly died in the night of 14.04.2013, as would be evident from the post mortem report, the inquest report and a copy of the charge sheet. It is a matter of concern that the date and time of death were wrongly recorded in the F.I.R. as “the night of 15.04.2013.”

Learned counsel appearing on behalf of the State submits as follows. Even if for the sake of argument, it is accepted that the date of the death was wrongly recorded or mentioned in the F.I.R., it does not change the date of death of the victim itself. Therefore, this would hardly be of any consequence. This application has been filed only to protract the trial.

I have heard the submissions of the learned advocates of the petitioner and the State and perused the revision petition.

The purported anomaly that exists in the F.I.R. cannot be a reason for further delay in the present trial.

Even if the date of death is wrongly mentioned in the F.I.R. the same cannot change the actual facts. The correct date of death would be evident from the contemporaneous documents like the death certificate, the post mortem report, the inquest report and the like.

If at all, the petitioner is entitled to any benefit from such anomaly it will be open to the learned trial court to decide that at the conclusion of the trial.

The proceeding cannot be stalled because of such strange concern showed by the petitioner about the wrong recording of death of the victim in the F.I.R.

In view of the above, I do not find any merit in the application.

Accordingly, the same is dismissed.

However, there shall be no order as to costs.

The learned trial court is requested to conclude the trial as expeditiously as possible without granting any unnecessary adjournment to any of the parties.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties upon usual undertakings.

(Jay Sengupta, J.)

