

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

Before:
The Hon'ble Mr. Justice Jay Sengupta

CRR 326 of 2021

Swapna Mahato & Ors.
Vs.
The State of West Bengal

With

CRR 249 of 2020

Asit Mahato & Anr.
Vs.
The State of West Bengal

With

CRR 2833 of 2019

Swapna Mahato
Vs.
The State of West Bengal

For the Petitioner : Mr. Nani Gopal Chakraborty,
Mr. Debnath Mahata.

For the State : Mr. Saibal Bapuli,
Mr. Arijit Ganguly.

Heard on : 19.03.2021

Judgement on : 19.03.2021

Jay Sengupta, J. :

The three revisional applications being CRR 2833 of 2019, CRR 249 of 2020 and CRR 326 of 2021, being connected applications, are taken up together for hearing.

Affidavits of service filed in these cases show that despite service, the de facto complainant has never appeared.

Learned Counsel appearing on behalf of the accused petitioners submits as follows. CRR 2833 of 2019 was filed by the accused/mother-in-law of the victim lady challenging an order refusing to direct further investigation under Section 173(8) of the Code at the behest of the accused. CRR 249 of 2020 was filed on behalf of the accused/husband and the accused/uncle-in-law challenging the proceeding. Since despite pendency of the two revisional applications, the learned Trial Court decided to proceed with the matter, the same was challenged by all the accused in CRR 326 of 2021. The prime contentions of the accused/petitioners are that investigation was not done properly. A charge sheet was filed without even getting the chemical report in question. No prayer was made for filing of any supplementary charge sheet. In the present case, a third person prayed for anticipatory bail before the learned Sessions Court. However, the matter was not disposed of. The investigating officer of the case did not do anything to enquire into the issue or to find out the whereabouts of that other person. No investigation whatsoever was done in this regard. Lastly, since the revisional applications were pending before this Court, the learned Trial Court ought not to have proceeded with the main case.

Learned Counsel appearing on behalf of the State relies on the case diary and submits as follows. This is a case of bride burning. As such, there are sufficient materials to prove the case even if the chemical report is not available. Also, there are statements of witnesses pointing towards the guilt of the accused. Merely because the post mortem doctor's opinion was kept reserved till the obtaining of the chemical report, it does not mean that the case of burning of the bride was not made out. In fact, this was a case of 100% burns suffered by the victim lady. It is for the learned Trial Court to consider whether materials were sufficient for holding the accused guilty. Moreover, there no provision contained in any law, which permits the accused to pray for further investigation of a case. Since, there was no stay granted in either of the two revisions, one of 2019 and the other one in 2020, there was no bar on the learned Trial Court to proceed with the case. There are no merits in any of the revisional applications filed by the petitioners.

I have heard the submissions of the learned Counsels appearing on behalf of the petitioners and State and have perused the revisional applications and the case diary.

Whether another person claiming to be an accused prayed for anticipatory bail is not at all relevant in the present case. It could have been done out of a mistaken belief. In any event, this aspect was not brought to notice at an earlier stage. Thus, this could only be treated as a ploy to delay the proceeding.

Non-obtaining of the chemical report does not strike at the root of the prosecution case. It appears that this is a case of bride burning. The victim received 100% burn injuries on her body. An inquest report and a post mortem report were prepared. There are statements of witnesses present in the case diary pointing towards the guilt of the accused. Therefore, it will not be for this Court to conduct a mini trial and decide whether the absence of the chemical report could lead to the exoneration of the accused.

A prima facie case seems to have been made out against the accused, so as to proceed to the next stage. Charges have been framed in this case and a date has been fixed for trial.

In view of the above, I find no merit in the application for quashing of the proceeding.

Besides, regardless of whether an accused has a right to pray for further investigation or not, there is no merit in the application made by the accused under Section 173 of the Code. The investigation was conducted properly and it makes out a prima facie case as discussed above.

Since, there was no stay granted in the revisional applications, the one of 2019 and the other of 2020, there was no bar on the learned Trial Court to proceed with the trial.

In view of the above, I do not find any merit in any of the revisional applications namely, CRR 326 of 2021, CRR 249 of 2020 and CRR 2833 of 2019.

Accordingly, the revisional applications are dismissed.

However, there shall be no order as to costs.

Learned Trial Court is requested to conclude the proceedings as expeditiously as possible without granting any unnecessary adjournment to any of the parties.

Since the investigating officer had long retired, the case diary was produced by an officer of the Santaldih Police Station. His presence is noted and dispensed with.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)