

23.06.2021

Item No.10
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 253 of 2010
(Via Video Conference)

Jugal Saha @ Jugal Chandra Saha & Anr.
versus
The State of West Bengal & Anr.

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

Mr. Kaushik Gupta ... For the Petitioners.

Mr. Swapan Banerjee,
Mr. Suman De ... For the State.

Mr. Kaushik Gupta, learned advocate appears on behalf of the petitioners.

Mr. Swapan Banerjee, learned advocate appearing for the State submits that by an order dated 23.02.2010, lower court records were called for by this Court and since then the proceedings in the court below has been stalled. The certified copies enclosed along with the revisional application reflect that by an order dated 23.12.2008, learned Judicial Magistrate, 2nd Court, Barrackpore was of the opinion that the materials available in the charge-sheet as also accompaniments *prima facie* made out a case under Section 498A read with Section 306 of the Indian Penal Code and the investigating officer intentionally submitted charge-sheet under Section 498A of the Indian Penal Code. The learned Magistrate proceeded to hold that the case is sessions triable and as such should be committed to the court of sessions.

Subsequently the accused persons starting evading the court and as such, the learned court by an order dated 31.03.2009 was pleased to issue warrant of arrest against them.

Having regard to the observations made by the learned Magistrate, I am of the *prima facie* view that the observations of the learned Magistrate substantiated by materials collected by the investigating agency and the answer of the investigating officer to the show cause issued that he had consulted with the public prosecutor and on his opinion, the offence under Section 306 of the Indian Penal Code has been deleted, is of no substance.

In view of the observations made above, I am of the considered opinion that the observations of the learned Magistrate do not suffer from any illegality and as such, the revisional application does not warrant any interference by this Court. The revisional application as such fails.

Accordingly, CRR 253 of 2010 is dismissed.

However, the petitioners would be at liberty to agitate the points canvassed in the revisional application in course of the trial.

Interim order, if any, is hereby vacated.

All connected applications are disposed of.

Lower court records be sent down to the concerned court below. Department is directed to take necessary steps so that the lower court records reach the jurisdictional court within a week from date.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)