

Court No.
32
Item 22
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10.02.
2021

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

C.R.R. 337 of 2021

Mamata Shome

Versus

State of West Bengal

For the Petitioner : Mr. Dr. Rajib Kumar Kundu

Heard on : 10.02.2021

Judgement on : 10.02.2021

Jay Sengupta, J. :

This is an application challenging the orders dated 21.01.2021 and 22.01.2021 passed by the learned Additional Chief Judicial Magistrate, Alipore, South 24 Parganas in B.G.R. Case No. 278 of 2021.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the defacto-complainant of the case and is the daughter of the

victim. She had lodged an FIR against the accused under Sections 324, 341, 506 and read with Section 34 of the Penal Code. However, the nature of injury was very grievous and it was absolutely clear that there was an attempt made on the life of the victim. Accordingly, the Investigating Agency made an application before the learned Magistrate to have Section 307 of the Penal Code added to the charges. But, the same was not decided and kept pending.

I have heard the submissions of the learned counsel appearing on behalf of the petitioner and have perused the revision petition and the order sheet annexed.

It appears that the petitioner herself lodged a FIR without charging the accused under Section 307 of the Code. However, it is always open to the Investigating Agency to find out whether any additional charges could be added and accordingly, it is open to the Investigating Agency to make a prayer for addition of a section. Keeping pending such prayer would not prejudice the victim or the defacto-complainant in any way.

If materials are found warranting addition of charges under Section 307, a charge-sheet can be filed

under that Section as well and cognizance on it may be taken by the learned Magistrate at the appropriate stage.

However, since a prayer has already been made by the Investigating Agency for addition of Section 307 of the Penal Code, the learned Magistrate ought to decide the same in accordance with law.

I do not think that there is any need to interfere with the impugned proceeding.

With these observations, the revisional application is disposed of.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J.)