

Sr.10
09-11-2021
Subha.
Court no. 34

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

CRR 1139 of 2020

with

IA No. CRAN 1 of 2020(Old No. CRAN 4556 of 2020)

with

IA NO. CRAN 2 of 2020

with

IA No. CRAN 3 of 2020

In the matter of : Amulya Maitypetitioner.

In Re : An application under Section 482 of the Code of Criminal Procedure.

Mr. Rajdeep Majumder
Mr. Moyukh Mukherjee
Ms. Arushi Rathore

.....for the petitioner.

Mr. Saibal Bapuli,
Ms. Sayanti Santra
Mr. Bibaswan Bhattacharya

.....for the State.

The revisional application was preferred challenging the proceedings arising out of Debra P. S. Case No. 322 of 2020 dated 04.08.2020 under Sections 354B/506 of the Indian Penal Code read with Section 3(v)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989 (Corresponding to G. R. Case No. 2002 of 2020).

Mr. Majumder, learned advocate appearing for the petitioner submits that the provisions of the Scheduled Castes & Scheduled Tribes(Prevention of Atrocities) Act, 1989 are not

applicable to the present case and the prosecution has purposely incorporated the same in order to harass the present petitioner.

In aid of his argument, he relies upon some judgements reported in (2020) 10 Supreme Court Cases 710 in the matter of *Hitesh Verma –versus- State of Uttarkhand & Anr.*, and the second one reported in 2019 SCC OnLine SC 1104 in the matter of *Khuman Singh –versus State of Madhya Pradesh* and the last one reported in (2008)16 Supreme Court Cases 417 in the matter of *Noor Aga –vs- State of Punjab & Anr.*

Mr. Bapuli, learned Additional Public Prosecutor appearing for the State has drawn the attention of this court to the statement of the victim recorded under Section 164 Cr.P.C as well as under Section 161 Cr.P.C .

The learned advocate for the State has stressed on the issue that the provisions of Scheduled Castes & Scheduled Tribes(Prevention of Atrocities) Act, 1989 is attracted in the present case in view of the fact that the accused and the victim were known to each other.

Per contra, Mr. Majumder, learned advocate for the petitioner submits that there is no iota of materials so collected by the Investigating Agency, which would show that the offence was committed.

He submits that hardly there was knowledge of the accused regarding the victim belonging to the Scheduled Castes & Scheduled Tribes Community.

It has been informed that the charge-sheet has already been submitted in connection with the instant case before the learned Special Judge, 1st Court under the SC & ST Act, Paschim Mednipur and the case has been renumbered as Special Case Spl. Trial No. 19 of 2021(R-19 of 2021).

Records of the revisional application reflects that on 26th August, 2020, a Coordinate Bench of this court was pleased to direct that “*No coercive action shall be taken against the petitioner for a period of four weeks from date*”.

The revisional application thereafter has appeared on number of occasions and the petitioner has diligently pursued the litigation before the High Court.

The certified copy which has been handed over by the learned advocate for the petitioner reflects that on the prayer of the S.D.P.O, Debra, the learned Special Court was pleased to issue warrant of arrest.

This court on an appreciation of the arguments advanced by both the parties is of the opinion that because of the presumptions appearing under Section 8(c) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, the contention so advanced by the petitioner is

premature. As such, the prayer advanced for quashing of the proceedings cannot be acceded to at this stage.

However, having regard to the bona fide appearance of the petitioner before this court, I am of the view that in case the petitioner surrenders by 1st December, 2021 before the Special Court, the Special Court shall release the petitioner on bail on such terms and conditions as the learned Special Court deems it fit and proper.

The petitioner would be at liberty to agitate the points canvassed in the revisional application at the appropriate stage of the proceedings before the learned Special Court.

With the aforesaid observations, the present revisional application being CRR 1139 of 2020 is disposed of.

All pending applications, if any, in connection with revisional application, are consequently disposed of.

Interim order, if any, is hereby vacated.

However, the warrant of arrest so issued should not be executed till 1st December, 2021. The learned Special Court would be at liberty to issue the warrant of arrest on 2nd December, 2021 if the petitioner do not surrender within the aforesaid period.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

(Tirthankar Ghosh, J.)