

C.R.R. No.1210 of 2019
(Via Vide Conference)

In the matter of : Debjit Sahani. ...petitioner.

Report submitted by the Inspector-in-Charge, Kalyani
Police State be kept with the record.

The grievance of the present petitioner is in respect of the order dated 01.02.2019 wherein the application for additional charges were refused by the learned Magistrate assigning the reasons that no sanction of West Bengal Government was taken by prosecution in this case, so, charge can be framed against the accused persons under Section 466/120B of Indian Penal Code. Learned court thereafter rejected the application under Section 216 of the Code of Criminal Procedure and fixed the date for evidence.

Having regard to the nature of the order so passed by the learned Magistrate, this Court is of the view that it has been settled

by the Hon'ble Supreme Court in P.K. Pradhan Vs. State of Sikkim reported at (2001) 6 SCC 704 that sanction can be made available before the delivery of the judgment. Further, the authority empowered to grant sanction is only to assess whether an offence was committed while purported by discharging the duty in public office, the sections of the Indian Penal Code or any special Act is of no relevance in an order granting or refusing sanction. The sections under which the trial is to be conducted is exclusively a judicial act and it is for the trial court to decide under which section charge is to be framed, amended or altered according to the materials available. If in course of trial, materials surface under the relevant sections, learned court should not be reluctant to amend or alter the charges on the technical plea that the sanctioning authority did not grant any sanction in respect of the relevant section proposed to be amended or altered.

With the aforesaid observations, CRR 1210 of 2019 is disposed of.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

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

(Tirthankar Ghosh, J.)