

23.08.2021

Item No.29
Ct.No.34
dc.

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

**C.R.R. 2161 of 2018
with
CRAN 1 of 2020 (Old No. CRAN 738 of 2020)
(Via Video Conference)**

**Nagar Roy & Anr.
versus
The State of West Bengal**

Mr. Prabir Majumder,
Mr. Snehansu Majumder ... For the Petitioners.

Md. Anwar Hossain,
Mr. Mirza Firoj Ahmed Begg ... For the State.

Mr. Debabrata Roy ... For the victim/Applicant.

An application has been taken out in connection with this revisional application where judgment and order of conviction dated 11.07.2018 passed by learned Additional Sessions Judge, 2nd Court, Krishnagar, Nadia in Criminal Appeal No. 01 of 2018 upholding the order of conviction and sentence of the petitioners passed by learned Judicial Magistrate, 3rd Court, Krishnagar, Nadia in G.R. Case No. 304/2007 arising out of Kotwali Police Station Case No. 88/07 dated 11.03.2007 under Sections 326/34 of the Indian Penal Code has been challenged. By the said judgment and order, the learned Magistrate was pleased to sentence the petitioner no.1 to suffer rigorous imprisonment for three years and fine of Rs.5000/-, in default to undergo rigorous imprisonment for one month and the petitioner no.2 to suffer rigorous imprisonment for one year and fine of Rs.5000/-, in default to suffer further imprisonment for one month.

The application has been taken out by the victim who does not intend to proceed with the case and prays for setting aside the conviction and sentence so passed by the learned Magistrate and affirmed by the learned appellate court.

I have perused the evidence so adduced and the nature of injury so inflicted upon the victim. The provisions of law do not empower the court to act against the conscience of the society. Accordingly, the prayer of the victim cannot be acceded to. The application being CRAN 1 of 2020 (Old No. CRAN 738 of 2020) is, thus, dismissed.

The lower court records reflect that the petitioner no.1 surrendered before the learned trial court on 09.04.2007 and was released on bail on 22.05.2007. So far as the petitioner no.2 is concerned, the petitioner no.2 was arrested on 27.03.2007 and was released on bail on 03.04.2007.

I have considered the evidence adduced by the prosecution in this case and I have found that the petitioner no.1 was involved in inflicting the vital blows to the victim while the petitioner no.2 picked up the quarrel on a previous issue.

Having regard to the findings arrived at by the learned trial court as well as the appellate court, I am of the view that no interference is called for so far as the finding of guilt of the accused petitioners are concerned. As such, their order of conviction is affirmed.

So far as the issue of sentence of the petitioner no.2 is concerned, having regard to the fact that the incident is more than 14 years old, I am of the view that the sentence of the

petitioner no.2 is reduced to the sentence which has already been suffered by him at the trial stage.

So far as the issue of sentence of the petitioner no.1 is concerned, the records reflect that he has suffered one and a half months in custody. Having regard to the period of time which has lapsed in the meantime, I am of the opinion that no useful purpose will be served by sending the petitioner no.1 in jail. Accordingly, I alter the quantum of fine so imposed by the learned trial court and affirmed by the learned appellate court to compensation of Rs.50,000/- (Rupees fifty thousand) to be paid to the victim Kanai Roy by 02.09.2021 before the learned Judicial Magistrate, 3rd Court, Krishnagar, Nadia.

If such compensation is paid by 02.09.2021, the sentence imposed upon the petitioner no.1 shall be reduced to that which has already been undergone by him in course of trial.

If the demand draft is tendered in court by the aforesaid date, the learned court would accept the same. On an appropriate application with proper identification (viz. Aadhar Card, Epic Card), the learned Magistrate will be at liberty to hand over the same to the victim Kanai Roy.

In case, the petitioner no.1 does not deposit the above amount by 02.09.2021, the sentence so imposed by the learned Magistrate would revive.

With the aforesaid observations, CRR 2161 of 2018 is disposed of.

Interim order, if any, is hereby vacated.

All pending connected applications, if any, are consequently disposed of.

Department is directed to send the lower court records forthwith to the learned Judicial Magistrate, 3rd Court, Krishnagar, Nadia.

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

(Tirthankar Ghosh, J.)