

Sr. 8
17-06-2021
Subha.
Court no. 34

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE
(Via Video Conference)**

CRR 2966 of 2001

In Re : **Molay Dhar**

.....Petitioner.

In the matter of : An application under Section 482 of the
Code of Criminal Procedure, 1973.

Mr. Milon Mukherjee, Sr. Advocate
Mr. Arindam Sen

...for the petitioner.

Mr. Swapan Banerjee, Id. APP,
Mr. Sandip Chakraborty

.....for the State.

Mr. Mukherjee, learned senior advocate appearing on
behalf of the petitioner submits that after completion of
investigation in connection with Tollugunge Police Station
Case No. 253 dated 28-09-2000 the Investigating Agency has
submitted a charge-sheet on 13-08-2001 under Sections
498A/307 of the Indian Penal Code.

Records reflect that after receiving the documents
under Section 207 of the Code of Criminal Procedure, the
present petitioner approached this court on or about 18-01-
2002.

The grievance as addressed by Mr. Mukherjee, learned senior advocate appearing on behalf of the petitioner is that whether the provisions of Section 307 of the Indian Penal Code would be applicable in the facts and circumstances of this case considering the injuries sustained and the documents to that extent collected by the Investigating Agency in support of this case.

Mr. Mukherjee, learned senior advocate further submits that to the best of his knowledge and understanding Section 324 of the Indian Penal Code is applicable in this case.

The revisional application was preferred at the stage when the learned trial court did not have any opportunity to come to its opinion as to under which sections charges should be framed. It was prior to that stage the petitioner has approached this court.

Having considered the submissions advanced by the petitioner as well as by the State, I am of the view that the points taken up by the petitioner in this revisional application should be canvassed first before the learned Magistrate. The learned Magistrate is directed to consider the submissions of the learned senior advocate so far as the provisions relating to injuries are concerned after taking into account Chapter XVI of the Indian Penal Code. As emphasis has been laid down by the learned senior advocate for the petitioner, the learned trial court would consider whether the provisions of Section 324 or Section 325 of the Indian Penal Code are applicable in this case.

With the aforesaid observations, CRR No.2966 of 2001 along with all connected applications, if any, is disposed of.

The learned trial court would independently consider the charges without being influenced by the observations made by this court.

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

(Tirthankar Ghosh, J.)