

CRR 1867 of 2020

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

Kishore Dey
Vs.
The State of West Bengal & Ors.

Mr. Priyanjit Kundu
.....For the Petitioner

Mr. Rana Mukherjee, Ld. A. P. P.
Ms. Sujata Das
.....For the State

The impugned order dated 26th August, 2020 passed by learned Chief Judicial Magistrate, Krishnanagar, Nadia in Misc. Petition No. 335 of 2020 allowing registration of a case under Section 156 (3) is the subject of challenge in this revisional application.

Learned advocate Mr. Priyanjit Kundu for the petitioner disputes with last two lines of the impugned order, wherein the learned court below while directing registration of this case observed that the Investigating Officer should not be influenced by the Sections of the offence, shown in the petition under Section 156 (3), which according to the learned advocate for the petitioner, has caused prejudice to the petitioner/de facto complainant.

Learned advocate for the petitioner further submits that it

is a case of murder and by reason of the observation of the learned court below, the Investigating Officer has already registered a case under Section 306, Indian Penal Code instead of doing it under Section 302, Indian Penal Code.

Learned Additional Public Prosecutor Mr. Rana Mukherjee assisted by learned advocate Ms Sujata Das representing the State/opposite party submits that investigation is going on and in course of continuing investigation it could not be revealed that the deceased victim suffered death by reason of his prolonged illness committing a suicide. The post mortem report has already been collected with further collection of inquest and examination of some of the witnesses under Section 161 of the Code of Criminal Procedure.

It is apparently clear that investigation has not been completed. There has been enough scope left open to duly respond to the contention raised by the learned advocate for the petitioner. Sections shown in 156, Cr. P. C. are not always material and relevant. What is more significant and relevant is the contents involved in the petition furnished in the 156(3), Cr. P. C. The investigation is supposed to be conducted with reference to the averments, shown in the petition under Section 156 (3), Cr. P. C. seeking registration of a case. It is the investigation, if carried out properly, will simply reveal the prima facie case during the course of investigation, irrespective of the Sections shown in the petition under Section 156 (3), Cr. P. C., which would be branded taking resort to appropriate Sections

shown in the Statute Books. Therefore, there is no reason to accept the contention, raised by the learned advocate for the petitioner that by reason of the registration of the case under Section 306, Indian Penal Code, instead of Section 302, Indian Penal Code, he has suffered prejudice, because at any point of time the dimension of the prosecution case may be shifted with the collection of new materials, if there be any.

More so learned advocate for the petitioner is not remedyless at the moment, if his contention is not duly addressed to by the Investigating Officer at this stage. Even after submission of the charge sheet, the petitioner/de facto complainant may express his grievance by filing an appropriate petition taking resort to the provisions contained in the Code of Criminal Procedure.

Having considered the submissions of both sides and bearing in mind the ongoing investigation, the court finds reasons to dismiss the revisional application with the observation as aforesaid.

The revisional application stands dismissed and accordingly disposed of.

The petitioner is at liberty to approach the Investigating Officer of this case with new materials, if there be any, in justification of his contention raised in this case, before the submission of the charge sheet. If any such approach is made by the petitioner/ de facto complainant with new materials remaining uncollected till date, the same may be taken in view in

accordance with the provisions of law.

(Subhasis Dasgupta, J.)