

CRR 8 of 2020

In the matter of: Abdur Rahaman @ Abdur Rahaman Mollya
....petitioner.

Md. Younush Mondal

...for the Petitioner.

Mr. Madhusudan Sur

Mr. Dipankar Paramanick

... for the State.

The present revisional application under Sections 401 and 482 of the Code of Criminal Procedure, 1973 has been preferred for setting aside the order dated September 30, 2019 passed by the learned Judicial Magistrate, 1st Court, Barasat.

It appears that on September 30, 2019 the accused persons, namely, Nasrin Bibi, Tahamina Bibi, Bablu Daptari, and Mithu Daptari by filing a petition prayed before the learned Magistrate that they intend to plead guilty. When the accusation under Sections 447/323/34 of the Indian Penal Code was read over and explained to the accused persons they pleaded guilty and accordingly, they were convicted under Section 252 of the Code of Criminal Procedure. Learned Magistrate also sentenced them to fine of Rs.500/- for the offence punishable under Section 447 of the Indian Penal Code and Rs.500/- for the offence punishable under Section 323 of the Indian Penal Code in default to suffer simple imprisonment for three months and one year respectively.

Md. Younush Mondal, learned counsel for the petitioner contended that the High Court by its order dated September 20, 2019 was pleased to give liberty to the investigating authority to record statement of the defacto complainant/petitioner under Section 164 of the Code of Criminal Procedure, if defacto complainant seeks to have made a statement under the said provision and liberty was also given

to the police authorities to make further investigation if police finds that there are other angles which required to be investigated. But after passing of that order by the High Court on September 20, 2019, the accused persons voluntarily pleaded guilty on September 30, 2019 as above.

Mr. Madhusudan Sur, learned counsel for the State has submitted a letter issued by I/C Deganga PS, Barasat PD, North 24-Parganas contending that the learned Judicial Magistrate had already disposed of the case as above and accordingly, the State prays for disposal of the present revisional application as it has become infructuous.

It has been contended by learned counsel for the defacto complainant/petitioner that it is true that the accused persons pleaded guilty as appearing from the order dated September 30, 2019 but the sentence awarded by the learned Magistrate is flea bite sentence.

Having regard to the facts and circumstances of the case and that the petitioner has prayed for setting aside the order impugned dated September 30, 2019 wherein accused persons have voluntarily pleaded guilty and learned Magistrate convicted them under the provision of 252 of the Code of Criminal Procedure, I find nothing to interfere with the order of conviction.

The revisional application being CRR 8 of 2020 is accordingly dismissed. However, this order will not preclude the petitioner to challenge the sentencing part, if any, in an appropriate proceeding.

(Ajoy Kumar Mukherjee, J.)