

10.02.2022

Item No.18
Ct.No.34
dc.

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

**C.R.R. 21 of 2017
with
CRAN 2 of 2017 (Old No. CRAN 3501 of 2017)
(Via Video Conference)**

**Munmun Ghosh & Ors.
versus
The State of West Bengal & Anr.**

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973 filed for quashing of the proceedings being G.R. Case No. 1130 of 2015 arising out of Shibpur Police Station Case No. 84 of 2015 dated 18.02.2015 under Section 420 of the Indian Penal Code pending before the learned Chief Judicial Magistrate, Howrah.

Mr. Antarikshya Basu,
Ms. Debarshi Brahma,
Mr. Sayan Mukherjee,
Ms. Madhumita Basak ... For the Petitioners.

Mr. S. G. Mukherjee, Ld. P.P.,
Mr. Arijit Ganguly,
Ms. Sayanti Santra ... For the State.

Mr. Satadru Lahiri,
Mr. Sourav Paul,
Mr. Shirsho Dasgupta ... For the Opposite Party No.2.

This revisional application was preferred challenging the proceedings relating to Shibpur Police Station Case No. 84 of 2015 dated 18.02.2015. This revisional application was filed in the year 2017 and was affirmed on 4th January, 2017.

Mr. S. G. Mukherjee, learned Public Prosecutor, appearing for the State draws the attention of this Court to the fact that charge-sheet was submitted on 31.08.2016. As such, the sole FIR could not have been the contention before this Court and the petitioners have never challenged the materials collected by the investigating agency or the conclusion arrived at. Neither there is any whisper in any of

the paragraphs of this revisional application regarding the charge-sheet has been filed.

Mr. Basu, learned advocate appearing for the petitioners has refuted such contention of the learned Public Prosecutor by relying upon judgments of the Hon'ble Supreme Court in ***Anand Kumar Mohatta and Another Vs. State (NCT of Delhi), Department of Home and Another*** reported in ***(2019) 11 Supreme Court Cases 706*** and in ***Joseph Salvaraj A. Vs. State of Gujarat and Others*** reported in ***(2011) 7 Supreme Court Cases 59***.

On appreciation of the facts on which the law has been laid down in both the aforesaid cases it reveals that the application under Section 482 of the Code of Criminal Procedure was preferred challenging the first information report and during the pendency of such application before the High Court, the investigating authorities on conclusion of investigation, submitted charge-sheet and as such, the Hon'ble Supreme Court was pleased to observe that if such an event takes place, then the High Court is not barred from exercising the provisions of Section 482 of the Code of Criminal Procedure on technical grounds. This is factually a different circumstance from the present revisional application which was filed subsequent to the charge-sheet having been filed. The revisional application, as such, is not maintainable.

The petitioners are granted liberty to file afresh by challenging both the first information report and the charge-sheet, if so advised.

Needless to mention that this Court has not gone into the merits of this revisional application and restricted itself only to the maintainability of this revisional application to the extent that when charge-sheet has already been filed, the petitioners cannot exclusively and solely challenge the FIR.

With the aforesaid observations, the revisional application being CRR 21 of 2017 is disposed of.

Interim order, if any, is hereby vacated.

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

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)