

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CRR 173 of 2021

**Reba Chakraborty
Vs.
The State of West Bengal & Ors.**

**For the petitioner : Mr. Sujoy Chakraborty, Adv.,
Ms. Shashwati Bhattacharjee, Adv.**

**Heard &
Judgement on : 30.06.2022.**

Bibek Chaudhuri, J.

Petitioner is the *de facto* complainant of Serampore Police Station Case No. 301/2019 dated 19th July, 2019 which was registered on the basis of a petition under Section 156(3) of the Code of Criminal Procedure against the FIR named accused persons/opposite parties under Sections 323/326/307/379/341/447/448/506/509/120B of the Indian Penal Code. Further grievance of the petitioner is that the Investigating Officer in spite of getting specific evidence in support of the charge under Section 307 of the Indian Penal Code omitted the

said sessions triable offence in the charge-sheet and filed charge-sheet under Sections 323/325/326/341/447/448/506/509/120B of the Indian Penal Code against the accused persons. This led the complainant to file an application under Section 173(8) of the Code of Criminal Procedure praying for further investigation. The Learned Additional Chief Judicial Magistrate, Serampore allowed the said application vide order dated 9th January, 2020. The investigation was taken up by another Investigating Officer attached to Serampore Police Station. During reinvestigation or further investigation he recorded the statement of the witnesses who were already examined by the previous Investigating Officer and submitted charge-sheet under the same penal provisions on the ground that making prayer for extension of time for investigation would be a futile attempt on his part as he was seriously engaged with Covid Pandemic duty.

Surprisingly enough Covid Pandemic duty cannot take away or curtail the foremost duty of a Police Officer to investigate into a case. In the first charge-sheet, the Investigating Officer clearly recorded in the brief fact of the case that accused "Samar Dutta and also (illegible) threatened abusing in slang languages and assaulted with a view to kill them. Amit Dutta took gold chain and illegible filed a false case against the Dabolina Pal @ Dutta (illegible)".

Thus, it *prima facie* transpires from the brief facts of the case that accused Samar Dutta and others assaulted one of the victims with the intention to kill him. The first investigation further reveals that the accused persons snatched away a gold chain.

It is needless to say that the power of the Learned Magistrate is not confined to take cognizance only in respect of the offences which has been stated in the charge-sheet by the Investigating Officer. If on perusal of the charge-sheet and other materials in case diary he is of the opinion that more grievous offence was, *prima facie*, alleged to have been committed by the accused persons, he may take cognizance of such offence on the basis of the materials available before him and direct the accused persons to be tried under the said charge, though not stated by the Investigating Officer in the charge-sheet.

Therefore, the instant revisional application is **disposed of** directing the Learned Additional Chief Judicial Magistrate, Serampore to give audience to the *de facto* complainant or his authorized Learned Advocate, examine the initial charge-sheet, supplementary charge-sheet and other materials in case diary and if he is of the opinion that the accused ought to be tried under Section 307 and Section 379 of the Indian Penal Code, he is at liberty to take

cognizance of such offence against the accused persons and pass necessary order directing the accused persons to be tried also under the said charge.

For above exercise, he will call for the record from the transferee Court and pass necessary order within two months from the date of communication of this order and preferably before Puja Vacation.

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)