

D/L51
10.11.2022
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C.R.R.275 of 2021

In Re: An application under Section 482 read with Section 401 of the
Code of Criminal Procedure, 1973;

Shankar Bhattacharjee
Versus
The State of West Bengal and another

Mr. Abhijeet Ganguly,
Mr. Saunavo Basu.
...for the petitioner.

Mr. Saswata Gopal Mukherjee, Ld.P.P.,
Mr. Imran Ali,
Ms. Debjani Sahu.
...for the State.

Mr. Ganguly, learned advocate appearing for the petitioner challenges the continuance of the proceedings and submits that the petitioner, being a superior has been falsely implicated in connection with the instant case as after non-performance she was removed from service. Learned advocate has enclosed certain documents to show that on umpteen occasion the complainant was warned regarding her performance but hardly she cared to improve her performance or diligence in work in the office. Additionally, learned advocate draws the attention of this Court to the statement of the three witnesses and demonstrates that if the background of the factual circumstances are considered and the statements under Section 161 of the Code of Criminal Procedure the charge-sheeted witnesses are considered, no case has been made out against the petitioner for further continuance in a court of law.

Mr. Imran Ali, learned advocate, appears on behalf of the

State and produces the case diary. Learned advocate draws the attention of this Court to the allegations made in the complaint as also the statement of the victim under Section 164 of the Code of Criminal Procedure.

I have considered the submissions of the petitioner as well as the State.

So far as the submissions of Mr. Ganguly are concerned regarding the documents of non-performance, the same are not part of the case diary. On the other hand, there are statements of the victim relating to the offence as alleged by the Investigating Agency. The same requires meticulous consideration by the court regarding the truth or the falsity in such contentions of the petitioner or the complainant.

As has been submitted that charge has not yet been framed and the last of the order which has been enclosed in the revisional application reflects that date has been fixed for framing of charges. I believe that the petitioner should be granted an opportunity to canvass the issues raised in this application before the learned Judicial Magistrate in *seisin* of the matter. When the charge would be framed, the petitioner would also be at liberty to draw the attention of the court regarding the applicability of the Sections in respect of which charge-sheet has been submitted. However, no interference can be made by this Court at this stage.

With the aforesaid observations, CRR 275 of 2021 is disposed of.

Pending application, if any, is 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 copies of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)