

17.05.2022

Item No.15
Ct.No.34
dc.

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

C.R.R. 153 of 2015

**Sanjib Kumar Paul @ Sanjib Pal & Ors.
versus
State of West Bengal & Anr.**

In Re: An Application under Section 482 read with Section 401 of the Code of Criminal Procedure, 1973 filed in connection with Haripal Police Station Case No. 97 of 2009 dated 20.08.2009 (G.R.No. 494 of 2009) under Sections 498A/306/34 of the Indian Penal Code.

Mr. Shibaji Kumar Das,
Ms. Rupsa Sreemani ... For the Petitioners.

Mr. Arijit Ganguly,
Mr. Sanjib Kumar Dan ... For the State.

The genesis of this case relates to a report being submitted by the police authority of Gujarat in an unnatural death case.

Mr. Das, learned advocate appearing for the petitioners submits that a conclusion was arrived at by the police authorities of Gujarat which was informed to the father of the deceased and thereafter, almost six months have passed when the present case was initiated. The learned advocate intends to emphasise on the issue of double jeopardy.

Mr. Ganguly, learned advocate appearing for the State produces case diary and draws the attention of this Court to the statement of the witnesses including that of the complainant.

I have checked the records of this revisional application as also the case diary. On a preliminary assessment of the same, I do not find that any case for

registration in consonance with the provisions of Section 154 of the Code of Criminal Procedure was initiated to test the culpability of the persons involved in a case. The finding in an investigation/enquiry under Section 174 of the Code of Criminal Procedure is in respect of unnatural death cases and the finding of the same is never conclusive for initiation of regular police cases. I have also gone through the statement of the witnesses relied upon by the prosecution under Section 207 of the Code of Criminal Procedure and I find that any opinion on the same would be prejudging the issues as the settled principles of law is that if there is 'some suspicion' regarding commission of the alleged offence and 'grave suspicion', the court of law is bound to weigh the same.

Mr. Das, learned advocate for the petitioners submits that he has instructions that a P.S. case was registered at Gujarat.

In view of such submission and the stage at which the petitioners approached this Court, I am of the opinion that all the documents relating to the proceedings of State of Gujarat be placed before the learned trial court by the petitioners at the stage of consideration of charge provided an application under Section 239 of the Code of Criminal Procedure is filed at the instance of the present petitioners. The learned court would consider the same and dispose of the same in accordance with law after hearing the State.

It has also been submitted that warrant of arrest is pending so far as the present petitioners are concerned and I

find from the case diary that the petitioners were granted bail after they were arrested in connection with the instant case. If the petitioners were earlier on bail and if they surrender by 10.06.2022, the learned court would allow the petitioners to continue on the same bond which was furnished before the jurisdictional court.

However, if the petitioners do not surrender by 10.06.2022 before the learned trial court, then on 13.06.2022, the learned trial court would proceed to next step of harsher process of law for compelling the appearance of the present petitioners.

With the aforesaid directions, the revisional application being CRR 153 of 2015 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.)