

10-06-2022
Subha
Item no.35
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 696 of 2022
with
CRAN 1 of 2022
with

In the matter of : **Tamalika Ghosh**petitioner.

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

Mr. Dipanjan Dutt
.....for the petitioner.

Mr. Sourav Chatterjee
Mr. Soumyajit Das Mahapatra
Mr. Supriyo Das
....for the O. P. no.2.

Mr. S. S. Imam
Mr. S. Kundu
....for the State.

The present revisional application has been preferred in
connection with Lake Town P. S. Case No. 05 of 2021 dated
04.01.2021 wherein chargesheet was submitted under Sections
325/506 of the Indian Penal Code.

Mr. Dutt, learned advocate appearing on behalf of the
petitioner submits that the petitioner has been falsely implicated in
the instant case and there is no admissible evidence for proceeding
against the present petitioner.

Learned advocate also points out that the learned Additional
Chief Judicial Magistrate, Bidhannagar initially took cognizance of the
offence when the chargesheet was submitted and thereafter when

application for further investigation was preferred at the instance of the de facto complainant, recorded that cognizance is not taken and thereafter passed an order for further investigation.

Learned advocate has also submitted that she surrendered before the learned A. C. J. M, Bidhannagar and was granted bail, but subsequently an application for further investigation and an application for cancellation for bail were preferred before the learned A.C.J.M, Bidhannagar.

Learned advocate further submits that the petitioner is apprehensive so far as the proceedings before the learned Magistrate is concerned.

Mr. Chatterjee, learned advocate appearing for the opposite party no. 2 opposes the contentions advanced on behalf of the petitioner and submits that the petitioner has surreptitiously obtained the bail which was passed by not adhering to either the provisions of law or the guidelines set out by this court.

Learned advocate has additionally submitted that the police authorities surprisingly converted an offence under Section 307 of the Indian Penal Code to one under Section 325 of the Indian Penal Code. The issue of further investigation was passed justifiably by the learned A.C.J.M, Bidhannagar and as such, the question regarding the issue of bail should be kept open.

Mr. Kundu, learned advocate appearing on behalf of the State supports the contentions advanced by Mr. Chatterjee, learned advocate for the opposite party no. 2.

I have perused the case diary, which was handed over by Mr.

Kundu, learned advocate for the State.

This court is adjudicating the revisional application at a stage when the learned A.C.J.M, Bidhannagar was pleased to pass an order for further investigation. On perusal of the case diary and the medical reports as a superior court, I am of the opinion that the applicability of Section 307 of the Indian Penal Code is debatable. At least, the medical reports reflect that the injuries may not come within the ambit of Section 326 of the Indian Penal Code.

Be that as it may, the materials which have been collected by the Investigating Agency at this stage when the documents under Section 207 of the Code of Criminal Procedure which are to be relied upon by the prosecution are yet to be served upon the petitioner do not make out a matured case for consideration of the prayers so advanced by the petitioner.

Accordingly, the prayer for quashing so advanced is not acceptable. So far as the issue of bail is concerned, as Mr. Dutta is apprehensive regarding her appearance on the dates so fixed by the learned A.C.J.M, Bidhannagar, I am of the opinion that the petitioner should physically appear on the date so fixed.

State is directed to produce the case diary. As there are no allegations that the petitioner has till date tampered with the evidence of the case or evaded the process of law, her liberty may not be curtailed only because of the technicalities and the guidelines laid down in CRM 9457 of 2020.

The petitioner had no liability if a court of law is reluctant to follow the guidelines. The petitioner was physically present. The court

was supposed to call for the case diary instead of that the court has passed an order of bail.

I do not find any fault on the conduct of the petitioner. As such, the learned court would consider the application for cancellation of bail in the background of the aforesaid observations.

Petitioner would be at liberty to agitate the points canvassed in the revisional application at the stage of consideration of charges before the learned jurisdictional court.

With the aforesaid observations, the revisional application being CRR 696 of 2022 is disposed of.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]