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April 6,
2022
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C.R.R. No.744 of 2019

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

Tanmay Das
Versus
The State of West Bengal & Ors.

Ms. Chandreyi Alam (Gupta).
...for the petitioner.

Mr. Saswata Gopal Mukherjee, Ld.P.P.,
Ms. Sujata Das.
...for the State.

Affidavit-of-service so filed by the petitioner be kept with
the record.

The grievance of the present petitioner happens to be that, although he has suffered major injury, the police authorities at the time of submission of the charge-sheet omitted Section 307 of the Indian Penal Code and restricted the bodily injury to only under Section 323 of the Indian Penal Code. The petitioner's grievance is on the foundation of the First Information Report as also the charge-sheet and the injury reports which are in his custody. The petitioner happens to be the informant/complainant/victim, as such, the documents on which the prosecution intends to rely and ordinarily supplied in course of the proceedings until and unless the same is supplied and thereafter prayer is advanced regarding the grievance either for further investigation or addition of section, the same is difficult to be considered.

Ms. Alam, learned advocate appearing for the petitioner

submits that primary grievance of the petitioner is in respect of the dilution of the offences made by the investigating officer while arriving at his conclusion.

Mr. Mukherjee, learned Public Prosecutor, appears on behalf of the State.

In view of the submissions advanced by the learned advocate appearing for the petitioner, I direct the learned jurisdictional court (if it is learned ACJM, Kalna) would hand over the copies of the injury reports collected by the investigating officer as also the documents under Section 207 of the Code of Criminal Procedure to the petitioner/complainant/informant/victim once an application is preferred. Learned Magistrate would thereafter allow the petitioner to bring to the notice of the court whether the sections for which the offences have been alleged in the charge-sheet would apply in the background of the case. The petitioner may be allowed to produce the medical documents which were not collected in course of the investigation.

If the learned Magistrate is of the opinion that the allegations or the contentions advanced by the petitioner herein are substantiated and do have a foundation of law, learned Magistrate will take an independent decision without being influenced by any of the observations made by this Court as to whether the offences complained of are magistrate triable or sessions triable and then progress with the proceedings.

With the aforesaid observations, CRR 744 of 2019 is disposed of.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

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

(Tirthankar Ghosh, J.)