

16.08.2022

Item No.71
Ct.No.34
dc.

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

C.R.R. 693 of 2010

**Tapan Kumar Singh
versus
The State of West Bengal & Ors.**

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

Mr. Imran Ali,
Ms. Debjani Sahu ... For the State.

None appears for the petitioner.

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

This revisional application has been preferred challenging the judgement and order of acquittal passed by learned Additional Sessions Judge, Fast Track 3rd Court, Burdwan in Sessions Case No. 217 of 2005 (Sessions Trial No. 38 of 2007).

The grievance of the petitioner was in respect of the reasoning so assigned by the learned trial court while arriving at its finding.

I find that the learned sessions court on an appreciation of the evidence was not satisfied on two counts. Firstly, regarding the period of time which has lapsed after the victim sustained injury and secondly, the reason assigned by the Medical Officer as Cardiac Respiratory Failure. The factual circumstances so appreciated by the learned trial court are indeed debatable. However, while exercising revisional jurisdiction, it is a settled proposition of law that if

there are two views and a trial court on an appreciation of the evidence has already acquitted the accused persons, the higher court ordinarily will not substitute its own views until and unless there are manifest error appearing in the records of the case or the mis-appreciation of the evidence was such that there has been miscarriage of justice.

Mr. Ali, learned advocate for the State has drawn the attention of the Court to the different factual appreciation made by the learned sessions court.

I have considered the same, but having regard to the diligence exercised by the learned sessions court as also the passage of time which has passed in the meantime (the incident complained of is of the year 2000), I am of the considered opinion that it would not be fit and proper in the instant case to interfere after a period of 22 years.

Accordingly, the revisional application being CRR 693 of 2010 is dismissed.

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.)