

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

**IA No.:CRAN/1/2021
in
CRR 836 of 2021**

**Arpita Sil
Vs.
The State of West Bengal & Anr.**

**For the petitioner : Mr. U. S. Chattapadhyay, Adv.,
Mr. Santanu Maji, Adv.,
Ms. Singdha Saha, Adv.,
Ms. Trisha Rakshit, Adv.**

**For the State : Mr. S. G. Mukherjee, Ld. P.P.,
Ms. Faria Hossain, Adv.,
Mr. Debjani Sahu, Adv.**

**Heard &
Judgement on : 04.07.2022.**

Bibek Chaudhuri, J.

The petitioner is the legally married wife of the opposite party no. 2. As a result of marital discord, various legal proceedings are pending between the parties. Previously, the opposite party no. 2 filed an application for restitution of conjugal rights. During the

pendency of the said suit, the petitioner filed a proceeding under the Protection of Women against Domestic Violence Act. It is alleged by the petitioner that in spite of an order of payment of monetary relief, the opposite party no. 2 failed and neglected to pay interim monetary relief to the petitioner. Subsequently, on 11th April, 2019 the opposite party no. 2 filed an application under Section 156(3) of the Code of Criminal Procedure alleging, *inter alia*, that the petitioner and her mother, since deceased, abused him in Serampore Court premises and physically assaulted him by fists and blows and kicks.

The Learned Additional Chief Judicial Magistrate, Serampore sent the said application under Section 156(3) of the Code of Criminal Procedure directing the Officer-in-Charge of Serampore Police Station to treat the said application as FIR and start specific case against her. Police registered Serampore Police Station case 161//2019 against the petitioner and her mother under Sections 341/323/504/506/34 of the Indian Penal Code corresponding to G.R. Case No. 724/2019.

Learned Advocate for the petitioner submits that Police failed to collect any evidence against the petitioner in support of the allegation made by the opposite party no. 2. Even no injury report was filed before the Investigating Officer to prove the charge under Section 323 of the India Penal Code.

Learned Public Prosecutor-in-Charge, on the other hand, submits that from the case diary it appears that the incident took place in Serampore Court premises on 29th March, 2019. Some Advocates were examined under Section 161 of the Code of Criminal Procedure and they corroborated the case of opposite party no. 2. The witnesses in their statement recorded under Section 161 of the Code of Criminal Procedure stated that they saw the accused persons abusing opposite party no. 2 with filthy language and assaulting him with fists and blows. It is also submitted by the Learned Public Prosecutor-in-Charge that absence of medical report does not *prima facie* disprove the charge under Section 323 of the Indian Penal Code.

I have carefully perused the case diary and the material-on-record. I do not find any reason to quash the proceeding instituted against the petitioner being Serampore police Station Case No. 161/2019.

Therefore, the instant criminal revision is **dismissed** on contest, however, without cost.

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)