

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 1371 of 2022

Sk. Rowshan Ashique @ Roushan Ashique

-vs-

The State of West Bengal & Anr.

For the Petitioner : Mr. Aniket Mitra

Heard on : 29.04.2022

Judgment on : 29.04.2022

Jay Sengupta, J.:

This is an application seeking for quashing of a proceeding in which a charge-sheet was submitted under Sections 447, 323, 376, 511 read with Section 34 of the Indian Penal Code.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the brother in law of the defacto-complainant/opposite party no.2. It was alleged by the

defacto-complainant in the First Information Report that the petitioner had animus with her husband. It was further alleged that on a particular date, the petitioner came inside the victim's room and tried to commit the rape on her. After she shouted, the petitioner fled away. When the matter was taken up by the couple, she was assaulted by the accused and his wife. She had to be treated at the local hospital from where she was referred to the R.G. Kar Hospital. Although Section 325 was imputed in the First Information Report, a charge-sheet could be filed only under Section 323 of the Indian Penal Code, amongst other sections. No prima facie case is made out against the petitioner as would be evident from a plain reading of the First Information Report and the charge-sheet. The petitioner is absolutely innocent and has been falsely implicated due to some property dispute. The victim refused to undergo medical examination.

I have heard the submissions of the learned counsel appearing on behalf of the petitioner and have perused the revision petition.

From a plain reading of the First Information Report, it appears that the informant had alleged an attempt to rape. For this medical examination may not be necessary.

It is true that the injury was finally found to be of simple nature. The same can result from a hit upon the head with a stick. It will depend on the facts of the circumstances of each case.

It appears that after she suffered injury, the victim had to be treated as hospital. Thereafter, she was referred to R.G. Kar Hospital. Doctors from both the hospitals have been cited as witnesses in the charge-sheet.

The points taken up by the petitioner essentially involve disputed questions of fact, which cannot be gone into in an application for quashing of a proceeding.

Therefore, I do not find any worthwhile reason to interfere with the impugned proceeding.

Accordingly, the same is dismissed.

However, there shall be no order as to costs.

The petitioner shall be at liberty to raise all the points taken up in this application before the learned trial Court at an appropriate stage.

With these observations, the revisional application is disposed of.

Urgent photostat certified copies of this order may be

delivered to the learned Advocates for the parties, if applied for,
upon compliance of all formalities.

(Jay Sengupta, J.)

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