

10.03.2022.

Item No.46

ss

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

C.R.R. 1340 of 2018

Iman Ali Khan

Vs.

The State of West Bengal & anr.

Mr. Rabiul Islam

Ms. Afreen Begum

... for the petitioner

Mr. Arijit Ganguly

Ms. Sujata Das

... for the State

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

Report submitted by Mr. Arijit Ganguly, learned Advocate for the
State be kept with the record.

Report reflects that charge-sheet was filed on August, 2020 under
Sections 341/427/379 of the Indian Penal Code and the next date has
been fixed before the jurisdictional court on 26.5.2022.

Petitioner has challenged in this revisional application regarding
the delayed investigation and prayed for quashing of the criminal
proceeding.

Learned lawyer appearing for the petitioner was repeatedly
confronted with the issue whether an application under the
provisions of Section 167(5) of the Code of Criminal Procedure was

preferred by the petitioner before the jurisdiction court in seisin of the matter.

Learned Advocate for the petitioner on instruction submits and the order sheet so available reflects that no application was preferred before the learned Magistrate. However, learned Advocate insists this Court to invoke the jurisdiction under Section 167(5) of the Code of Criminal Procedure. Learned Advocate relies upon two decisions reported in **2003 SCC Online Cal 568 (Naresh Chandra Joarda & Partha Sarathi Roychoudhury Vs. State of West Bengal)** and also reported in **2002 SCC Online Cal 191 (Anup Kumar Roy Vs. State of West Bengal)**.

Both the judgements referred to by the learned Advocate for the petitioner are contrary to the judgement of the Hon'ble Supreme Court reported in **A.I.R. 1996 S.C. 740 (Durgesh Chandra Saha Vs. Bimal Chandra Saha and ors.)**. The judgements referred to are in the nature of deciding an issue under Article 21 of the Constitution of India on the foundation of right to speedy trial.

Be that as it may, as the charge-sheet has already been submitted before the jurisdictional court, and cognizance has already been taken by the learned Magistrate, I am of the opinion that no interference can be made at this stage. However, the petitioner would be at liberty to agitate the points regarding the merits of the case at the stage of consideration of charge before the learned Magistrate.

With the aforesaid observations, CRR 1340 of 2018 is disposed of.

Pending application, if any, is consequently disposed of.

Interim order, if any, stands vacated.

Learned Magistrate is directed to fix at least one day in a month so that the trial of the case can reach to its logical conclusion.

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

(Tirthankar Ghosh, J.)