

Form J(1)

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

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

CRR 1660 of 2022

**Priyanka Bhowmick
Vs.
The State of West Bengal & Anr.**

**For the petitioner : Mr. Dipankar Chatterjee, Adv.,
Mr. Subhadip Chakrabarty, Adv.,
Ms. Dipika Banu, Adv.**

**For the State : Mr. P. K. Datta, Adv.,
Mr. Santanu Deb Ray, Adv.
Md. Kutubuddin, Adv.**

Judgement on : 17.11.2022.

Bibek Chaudhuri, J.

The Learned Magistrate took cognizance of offence under Sections 341/323/506 of the Indian Penal Code on the basis of Police report vide order dated 7th April, 2022.

The aforesaid order of cognizance is assailed in revision by the *de facto* complainant alleging, *inter alia*, that the Learned Magistrate acted illegally and with material irregularity by not taking cognizance either under Section 307 or at least under Section 325 of the Indian Penal Code.

Without going into the merit of the instant revision, this Court is of the view that the *de facto* complainant/petitioner can urge this point involved in the instant revision by filing a petition before the Learned Magistrate at the time of consideration of charge against the accused.

In view of such circumstance, the instant revision is disposed of giving liberty to the *de facto* complainant to urge the issue of framing of charge in a graver Section than that of the penal provisions on which cognizance has been taken.

It is made clear that this Court has not gone into the merit of the case of either of the parties and the Learned Magistrate will take independent decision on the point of framing of charge of perusal of the materials filed along with the Polices report under Section 173(5) of the Code of Criminal Procedure and also the materials in Case Diary.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Bibek Chaudhuri, J.)