

04-11-2022
Subha
Item no. 49
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 1290 of 2021
with
CRAN 1 of 2022

In the matter of : Dhiraj Pal

...Petitioner.

Mr. Subir Banerjee
Mr. Sandip Bandyopadhyay
Mrs. Rukmini Basu Roy

....for the petitioner.

Mr. Joydeep Roy, Jr. Govt. Advocate
Mrs. Sujata Das

...for the State.

Mr. Banerjee, learned advocate appearing for the petitioner challenges the continuance of the proceedings arising out of Raiganj Women Police Station Case No. 12 of 2019 under Sections 498A/307/506 of the Indian Penal Code wherein the police authorities after completion of the investigation submitted chargesheet under the same sections.

Mr. Banerjee, learned advocate appearing for the petitioner has also drawn the attention of this court to the order dated 26.03.2021 wherein the learned Chief Judicial Magistrate, Raiganj, Uttar Dinajpur was pleased to commit the case to the learned Sessions Judge, Uttar Dinajpur as Section 307 of the Indian Penal Code happens to be a sessions triable offence.

Ms. Das, learned advocate appearing for the State produces the case diary. Learned advocate also draws the attention of this court to the only medical documents available in the case diary which

relates to an emergency ticket of Raiganj District Hospital which do not reflect any injury which can be related to either Section 326 or 307 of the Indian Penal Code.

However, the same can be related to an injury in the nature of Sections 323 or 324 of the Indian Penal Code.

Having regard to the materials collected by the Investigating Agency more particularly, the statement of the witnesses and the medical document, I am of the opinion that no offence under Section 307 of the Indian Penal Code is made out. Accordingly, the applicability of the said provisions in the chargesheet or subsequent proceedings are hereby quashed.

In view of the aforesaid, the offence for which the present petitioner can be asked to face the trial can only be under Section 498A/506 or either under Sections 323/324 of the Indian Penal Code.

Having regard to the same, the order dated 26.03.2021 passed by the learned Chief Judicial Magistrate, Uttar Dinajpur at Raiganj calls for interference and as such, the same is hereby set aside. Pursuant to the said order if the records have been transmitted to the learned Sessions Judge, Uttar Dinajpur, I direct that the learned Sessions Judge, Uttar Dinajpur or any learned Sessions Court to whom the case has been subsequently made over should send back the records to the learned Chief Judicial Magistrate, Uttar Dinajpur as on an assessment of the materials by this court an opinion has been reached that the offence complained of are Magistrate triable offences. Once the records are placed before the learned Chief Judicial Magistrate, Uttar Dinajpur at Raiganj, the learned CJM would try

himself or delegate the same to a Magistrate of his choice who would frame charges under Sections 498A/506 of the Indian Penal Code and either under Sections 323 or Section 324 of the IPC after assessing the medical documents so available and proceed with the trial of the case.

In view of the aforesaid, the revisional application being CRR 1290 of 2021 is partly allowed.

Pending applications, if any, are consequently disposed of.

Report submitted by the Inspector-in-Charge, Raiganj Women PS, Uttar Dinajpur through the learned advocate for the State be kept with the record.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]