

18.02.2022

Item No.24
Ct.No.34
dc.

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

C.R.R. 1150 of 2017
(Via Video Conference)

Morsalim Jamader
versus
The State of West Bengal & Ors.

In Re: An Application under Section 482 read with Section 401 of the Code of Criminal Procedure filed in connection with Usthi Police Station Case No. 200 dated 11.09.2007 (G.R. Case No. 1067/07) under Sections 498A/304B/34/306 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.

Mr. Arijit Ganguly,
Ms. Debjani Sahu ... For the State.

As none appears on behalf of the petitioner or for the State, Mr. Arijit Ganguly, learned advocate, who ordinarily appears for the State, is directed to appear in this matter and represent the State. His appointment may be regularized by the concerned authorities.

The present revisional application has been preferred challenging the order dated 21.02.2017 passed by the learned Judicial Magistrate, 2nd Court, Diamond Harbour.

The *de facto* complainant filed an application before the learned Magistrate submitting that as the Sections involved are sessions triable as such, the learned Magistrate has no authority to continue the trial of the case.

Records reflect that although FIR was registered under Sections 498A/304B/34/306 of the Indian Penal Code, yet charge-sheet was submitted under Sections 498A/406/34 of the Indian Penal Code.

In view of the Sections under which the charge-sheet was submitted, there was no illegality in the continuance of the proceedings before the learned Magistrate and as such, the order under challenge calls for no interference.

It is directed that in course of evidence, if it surfaces that the facts which are appearing do make out offences either under Section 304B of the Indian Penal Code or under Section 306 of the Indian Penal Code, the learned Magistrate will be at liberty to refer the matter to the learned sessions court in accordance with the provisions of the Code of Criminal Procedure.

With the aforesaid observations, the revisional application being CRR 1150 of 2017 is disposed of.

Interim order, if any, is hereby vacated.

All pending connected applications, if any, are consequently disposed of.

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

(Tirthankar Ghosh, J.)