

19.07.2022

Item No.2
Ct.No.34
dc.

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

C.R.R. 1242 of 2003

**Shri Bijoy Sinha Roy
versus
Dr. Biswanath Das & Ors.**

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

Ms. Faria Hossain,
Ms. Baisali Basu

... For the State.

Report dated 11.07.2022 prepared by the Assistant Commissioner of Police, Cyber Police Station, Investigating Officer of the case has been submitted by Ms. Faria Hossain, learned advocate appearing for the State be kept on record.

The said report reflects that opposite party no.1 has expired during the pendency of this revisional application.

The opposite parties being doctors were implicated in connection with TR No. 424-1999 who faced trial before the learned Judicial Magistrate, 5th Court, Alipore. The trial court on appreciation of the evidence by its judgement and order dated 31.03.2002 was pleased to acquit the opposite parties from the charges under Section 304A of the Indian Penal Code.

I have perused the judgement passed by the learned Judicial Magistrate, 5th Court, Alipore and the reasons assigned therein. It reflects that the accused persons being doctors used their discretion at the relevant point of time which weighed with the learned court to favour with an order

of acquittal. This Court while exercising its revisional jurisdiction will only interfere with an order of acquittal if there is any manifest error which results in gross miscarriage of justice. Further, it has been settled by the Hon'ble Supreme Court that if an alternate view is possible, the same also cannot be replaced by a higher Court while exercising its revisional jurisdiction against an order of acquittal. In this case, there may be alternate view, but to substitute that view of the trial court when there has been no manifest error would result in abuse of process of the law. Accordingly, I am of the opinion that no interference is called for in respect of the subject matter of challenge being the impugned judgement and order dated 31.03.2003 passed by the learned Judicial Magistrate, 5th Court, Alipore.

Accordingly, the revisional application being CRR 1242 of 2003 is dismissed.

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.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)