

07.06.2022

Item No.22
Ct.No.34
dc.

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

C.R.R. 1743 of 2022

**Bhupal Chandra Sardar
versus
The State of West Bengal & Anr.**

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

Mr. Prajnadeepta Roy ... For the Petitioner.

Mr. Bidyut Kumar Roy,
Ms. Ratna Ghosh ... For the State.

Learned advocate appearing for the petitioner challenges the order dated 05.07.2017 passed by learned Additional Chief Judicial Magistrate, Baruipur in connection with M.P. Case No. 796 of 2017 which was an order under Section 156(3) of the Code of Criminal Procedure and pursuant to which Sonarpur Police Station Case No. 1530 of 2017 dated 15.08.2017 under Sections 354B/323/326/307/506/379/34 of the Indian Penal Code was registered for investigation.

The contention of the petitioner is that prior to the aforesaid FIR being registered on the selfsame set of facts, Sonarpur Police Station Case No. 950 of 2017 dated 26.05.2017 was registered for investigation.

Learned advocate for the petitioner submits that on the test of sameness, the second FIR should be quashed.

As the revisional application can be disposed of, Mr. Bidyut Kumar Roy, 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 petitioner is directed to serve a copy of this revisional application upon Mr. Roy, learned advocate for the State.

One of the peculiar issues faced by this Court is that the records of this revisional application only contains the FIR and it has been submitted that date has been fixed for framing of charge by the learned trial court. None of the records relating to the charge-sheet or the documents relied upon by the prosecution under Section 207 of the Code of Criminal Procedure are enclosed along with this revisional application. As such, it is very difficult for this Court to assess regarding the test of sameness. However, as the learned trial court is in seisin of the matter and it has been submitted that both the cases are before the same court, the learned trial court would consider the test of sameness at the stage of consideration of charge and thereafter decide whether one case should proceed or both the cases should proceed.

With the aforesaid observations, the revisional application being CRR 1743 of 2022 is disposed of.

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.)