

21.04.2022
Item No.1
Ct. No. 35

CRR No.1210 of 2010

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

And

In the matter of : Mukti Sadhan Kuti

.....Petitioner.

Ms. Anasuya Sinha
Mr. Rajiv Lochan Chakraborty
Ms. Jonaki Saha

...for the Petitioner.

Ms. Faria Hossain
Mr. Baisali Basu

....for the State.

This is an application for quashing G.R. Case No.893 of 2006 pending before the learned Additional Chief Judicial Magistrate, Uluberia, arising out of Shyampur Police Station Case No.134/06 Dated 25.9.2006 under Section 302 of the Indian Penal Code.

Learned Advocate appearing on behalf of the petitioner submits that the charge sheet had been filed pending report from the Forensic Laboratory and after obtaining the report, the investigating agency filed a supplementary charge sheet. She refers to the relevant part of the supplementary charge sheet to indicate that the report suggested that no blood could be detected in the full shirt of the accused.

She further points out that as per the said report blood stain on the samples were disintegrated and their origin could not be determined and the group of the sample blood also could not be determined due to disintegration.

It is the case of the petitioner that since the FSL does not connect the accused with the alleged offence, the FIR and the charge sheet should be quashed. She further urges that since there are no other sufficient materials against the petitioner to corroborate the case of the prosecution, the continuation of the criminal case will be an abuse of process of law.

Ms. Faria Hossain, learned Counsel appearing for the State, on the other hand, submits that the investigating agency in course of investigation recorded the statements of the relatives as well as the neighbours of the deceased lady under Section 161 of the Code of Criminal Procedure, and from their statements it transpired that the petitioner used to work at the house of the deceased lady, who was aged about 60 years. The statements recorded under Section 161 of the Code of Criminal Procedure clearly suggest that there was enmity between the deceased and the petitioner. There is enough circumstantial evidence against the petitioner.

I am of the view that the present case could not be quashed in exercise of the power under Section 482 of the Code of Criminal Procedure, 1973.

The case diary suggests that the investigating agency sent the following items to the State Forensic Science Laboratory.

- A. Sample blood said to be of Malati Ganguly.
- B. Post Mortem blood said to be of Malati Ganguly (deceased).
- C. A tuft of black hair & pieces of nail cuttings said to be of deceased Malati Ganguly.
- D. One partly torn white pin-stripped gray coloured full shirt bearing brownish muddy stains at places.

Sample A and B were sent to the institute of serology, Government of India which opined that blood stains on the said samples were disintegrated and their origin could not be determined and for the same reason, the blood group of the stains on the said items also could not be determined.

With regard to sample C and D the State Forensic Science Laboratory opined that no blood could be detected in item D and blood was insufficient for serological test in item C.

No doubt the FSL Report did not connect the petitioner with the alleged crime.

A charge sheet or FIR, however, can only be quashed in exercise of the inherent power of this Court if the same does not disclose the commission of offence or there is no material at all to suggest that the accused was involved in the alleged offence.

The charge sheet as well as the materials collected by the investigating agency suggest that the deceased was murdered in a ghastly manner. The enmity between the deceased and the

petitioner is apparent from the statements of the witnesses recorded under Section 161 of the Code of Criminal Procedure. The said statements also suggest that the petitioner was in touch with the deceased lady even few days before the murder took place.

The case against the accused cannot be quashed solely on the ground that the FSL report did not connect the accused with the alleged offence. The other circumstantial evidence should also be looked into by the trial Court at the appropriate stage.

Accordingly, the revision application for quashing of the proceeding stands disposed of.

The disposal of this application for quashing will not stand in the way of the petitioner to take all points available to him at the appropriate stage of the proceeding in the trial Court and the learned trial Court below shall consider the same without being influenced by the observations made in this order.

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

(Kausik Chanda, J.)