

03.11.2022

Item No.32
Ct.No.34
dc.

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

C.R.R. 1398 of 2021

**Bisweswar Banerjee & Ors.
versus
The State of West Bengal & Anr.**

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

Mr. Moyukh Mukherjee, Mr. Abhishek Dutt, Ms. Rupa Singh	... For the Petitioners.
Mr. Aniket Mitra	... For the State.

Mr. Mukherjee, learned advocate appearing for the petitioners submits that in the charge-sheet, the victim lady has not been incorporated as a witness and the whole case has been based on hearsay evidence. According to the learned advocate, the lady had left her matrimonial home in close proximity of the time of marriage and thereafter did not return and initiated the instant case for settling her grudge. Although the husband is working at B.S.F. and is not staying at home, he has been implicated by the complainant and the investigating agency in a mechanical manner submitted charge-sheet against him.

Mr. Mitra, learned advocate appearing for the State submits that there are materials appearing against the petitioners and even if the victim has not been named in the charge-sheet, the learned court in course of trial is at liberty

to invoke the relevant provisions of law for examination of such witness.

I have perused the case diary which was produced before this Court and I find that the statement of Bobita Thakur, the lady for whom her father lodged the complaint which was treated as FIR of the instant case has been examined by the Investigating Officer of the case, although inadvertently she has been left out in the list of witnesses in the report under Section 173 of the Code of Criminal Procedure.

I find that the petitioner no.1 happens to be the husband, petitioner nos. 2 and 3 are the parents-in-law, petitioner no.4 is a household help, petitioner no.5 is maternal uncle of the petitioner no.1 and petitioner no.6 is maternal aunt of the petitioner no.1. I have assessed the materials in the background of the complicity of each of the petitioners. On a *prima facie* assessment of the same, I find that so far as the petitioner nos. 4 (Mukul Banerjee), 5 (Hara Prasad Mukherjee) and 6 (Shefali Roy) are concerned, there are hardly any materials to proceed against them or frame charges against them in respect of the allegations made. As such, the proceedings against Mukul Banerjee, Hara Prasad Mukherjee and Shefali Roy are hereby quashed.

So far as the materials which are appearing against the petitioner nos. 1 (Bisweswar Banerjee), 2 (Dilip Banerjee) and 3 (Putul Banerjee) are concerned, I find that there are

corroborating evidence which do substantiate the charges brought against them by the Investigating Officer of the case in the report under Section 173 of the Code of Criminal Procedure. Accordingly, they are directed to face trial before the learned Magistrate.

As the instant case was initiated in the year 2019, more than three years have passed since then, the learned trial court would at least fix a date once in every two months so that the trial of the case can be taken to its logical conclusion within a reasonable period of time.

With the aforesaid observations, the revisional application being CRR 1398 of 2021 is partly allowed.

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.)