

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CRR 1944 of 2022

**Krishna Kamal Adhikary @ Rana Adhikary
Vs.
The State of West Bengal & Anr.**

**For the petitioner : Mr. Sukanta Chakrabarty, Adv.,
Mr. Anindya Halder, Adv.**

**For the State : Mr. S. G. Mukherjee, Ld. P.P.,
Ms. Faria Hossain, Adv.,
Ms. Mamata Jana, Adv.**

Judgement on : 17.08.2022.

Bibek Chaudhuri, J.

Indisputably, charge-sheet has been filed against the accused/petitioner in Itahar Police Station Case No. 224/2021 under Sections 363/365/420 of the Indian Penal Code and added Sections 302/201/376 of the Indian Penal Code. In a single sentence, it is pertinent to mention that charge-sheet has been filed against the accused on the basis of the materials supporting the principle of 'last seen together'. After receipt of copies under Section 207 of the Code of Criminal Procedure an application was filed on behalf of the accused/petitioner praying for a direction upon the Investigating Officer for further

investigation of the case on the ground that during investigation the Investigating Officer collected call details report between one of the victims and the accused. However, it is within the knowledge of the accused that the deceased made phone call through his mobile phone in various numbers beside the phone number of the accused and those call details reports are required to be produced for fair trial of the case. Secondly, it is submitted on behalf of the petitioner that in order to prove the allegation that the deceased husband and wife were lastly seen in association with the accused, CCTV footage of the locality ought to be produced. Thirdly, it is alleged on behalf of the petitioner that the charge-sheet filed against the accused did not accompany the statement of the witnesses recorded under Section 161 of the Code of Criminal Procedure.

By passing the order impugned on 19th May, 2022 the Learned Additional Sessions Judge, Fast Track, 2nd Court at Raiganj rejected the aforementioned application filed on behalf of the petitioner. The said order dated 19th May, 2022 is assailed in the instant revision.

I have heard Mr. Chakraborty, Learned Advocate for the accused/petitioner and Mr. Mukherjee, Learned Public Prosecutor.

From the application filed on behalf of the petitioner in the Trial Court on 3rd March, 2022 it is ascertained that it was within the knowledge of the accused that one of the victims made phone calls on the fateful date of occurrence to various persons beside the accused. Therefore, the said fact is within the special knowledge of the accused which he is legally bound to

prove in order to prove his innocence during trial. With regard to CCTV footage, this Court is of the view that at the time of consideration of charge such CCTV footage is not required. However, during trial an appropriate application may be made on behalf of the accused calling for such record in support of his defence. With regard to his third objection this Court is of the view that since the accused has already received copies of the statement of the witnesses recorded under Section 161 of the Code of Criminal Procedure in compliance with the provision of Section 207 of the Code of Criminal Procedure, he cannot raise such technical objection in respect of non-production of the statement of the witnesses recorded under Section 161 of the Code of Criminal Procedure with the charge-sheet.

Mr. Chakraborty has also criticized the process of investigation and submission of charge-sheet by the Investigating Officer on the point that in spite of submission of charge-sheet the Investigating Officer has prayed for liberty to file supplementary charge-sheet on receipt of scientific examination report of the call details.

It is needless to say that Section 167 has stipulated a specific timeline within which an investigation is required to be submitted. The Court can take even the judicial notice of the fact that due to paucity of forensic science laboratory all over the country, submission of charge-sheet is delayed for want of scientific examination report in order to overcome such practical problem and with a view to maintaining the specific timeline within which the investigation is required to be completed as laid down in Section 167 of the Code of Criminal Procedure, the

Investigating Officer submitted charge-sheet with the leave of the Court to file supplementary charge-sheet on receipt of scientific examination report of call details between the victim and the accused.

I do not find any infraction of statutory provision in filing such charge-sheet by the Investigating Officer. The Learned Public Prosecutor-in-Charge has rightly pointed out that on the one hand, the accused prayed for further investigation and on the other, he filed an application under Section 227 of the Code of Criminal Procedure praying for discharging him from the case. In support of his contention the Learned Public Prosecutor has placed server copy of the order dated 12th August, 2022 passed by the Learned Sessions Judge, Fast Track Court No. 2 at Raiganj in connection with Sessions Case No. 85/2021. The Learned Sessions Judge has fixed further hearing of the application under Section 227 of the Code of Criminal Procedure on 1st September, 2022.

In view of the above discussion, I do not find any reason for interference with the order impugned. However, the accused/petitioner is at liberty to pray for CCTV footage if required during trial and the learned Trial Judge will consider such prayer without being influenced in any manner with regard to any observation made in the instant revision. It is made clear that the observation made by this Court is tentative and made only for the disposal of the instant revision.

With the above order, the instant criminal revision is disposed of on contest.

The learned trial Judge is requested to dispose of the application under Section 227 of the Code of Criminal Procedure filed on behalf of the accused on the date fixed and on the basis of such decision he shall take the next course of action.

Learned Public Prosecutor, High Court, Calcutta has filed a report submitted by the Investigating Officer. Let the report be kept with the record.

It is pointed out by the learned Public Prosecutor, High Court, Calcutta that in view of the notice being served upon the parents of the deceased, the old unfortunate parents have appeared before this Court. Their appearance is noted and dispensed with. Personal appearance of the Investigating Officer is also dispensed with.

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)
Item No. 07.