

Form J(2)

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

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

**C.R.R. 2019 of 2022**

**Mukund Mohan  
Vs.  
State of West Bengal & Anr.**

**Petitioner : Mr. Mukund Mohan (in person)**

**Heard on : 29.06.2022**

**Judgment On : 29.06.2022.**

**Bibek Chaudhuri, J.**

The father of the petitioner, namely Raghunath Jha, one of the accused in G.R.Case No.244 of 2019 filed an application under Section 239 of the Code of Criminal Procedure with a prayer to discharge him. The learned Additional Chief Judicial Magistrate, Bidhannagar passed an order that the said application under Section 239 of the Code of Criminal Procedure shall be disposed of on the date of framing of charge and fixed 29<sup>th</sup> July, 2022 for consideration of the application and framing of charge.

The petitioner being the son of said Raghunath Jha has challenged the legality, validity and propriety of the order dated 7<sup>th</sup>

March, 2022 passed by the learned Additional Chief Judicial Magistrate, Bidhannagar.

In the same petition the petitioner has prayed for quashing of G.R. Case No.244 of 2019 on the ground that initially police submitted charge-sheet under Sections 498A/406 of the Indian Penal Code and in the charge-sheet it was specifically mentioned that police could not collect injury report of the de-facto complainant from R.G.Kar Medical College & Hospital. Subsequently police submitted supplementary charge-sheet against the accused adding Section 325 of the Indian Penal Code and in the charge-sheet it was mentioned that police obtained medical report of one Rashmi Jain from Tala Police Station and it was used in G.R. Case No. 244 of 2019 to file charge under Section 325 of the Indian Penal Code against the petitioner. It is also pointed out that police filed the charge-sheet on certain extraneous consideration. He lodged a complaint against the Investigating Officer before the Commissioner of Police, Bidhannagar Commissionerate but the higher officer of the police did not take any action against the Investigating Officer.

Having heard the petitioner in person, this Court clearly states that this Court is not in a position to adjudicate as to whether a charge-sheet was filed by the Investigating Officer on extraneous consideration or not. This Court also cannot direct the Commissioner

of Police to take action against the Investigating Officer on the basis of the letter written by the petitioner.

However, this Court is of the view that the petitioner or his authorize representative must be heard on the point of consideration of charge on the date of framing of charge. The learned Additional Chief Judicial Magistrate, Bidhannagar, is, therefore, requested to consider the application under Section 239 of the Code of Criminal Procedure filed by the father of the petitioner praying for discharge and also the contention of the petitioner as regards filing of charge-sheet under Section 325 of the Indian Penal Code. Only after considering submission made by either the present petitioner or his authorize representative, the learned Additional Chief Judicial Magistrate shall take final decision as to whether charge can be framed in G.R. Case No.244 of 2019 or not. With the above direction, the instant criminal revision is **disposed of**.

The learned Additional Chief Judicial Magistrate is also directed to consider the petition under Section 239 of the Criminal Procedure Code and decide as to whether charge will be framed or not on 29<sup>th</sup> July, 2022. If the learned Magistrate finds material to frame charge against the petitioner, he will frame charge and conclude the hearing of the case within 5 months thereafter.

The above direction is peremptory.

The petitioner is at liberty to act upon the server copy of the order.

**(Bibek Chaudhuri, J.)**