

Form J(2)

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

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

CRR 1811 of 2021

**Bimal Ray
Vs.
The State of West Bengal & Anr.**

For the petitioner: Mr. Angshuman Chakraborty
Mr. Shashanka Shekhar Saha

For the State

Item No.46.

Heard & Judgment on: 04.07.2022

Bibek Chaudhuri, J.

It is submitted on behalf of Mr. Rudradipta Nandy, learned advocate that he has not come to the Court today due to his illness.

A very short point is involved in the instant revision. I am inclined to dispose of the instant matter here and now. On the

basis of a written complaint submitted by one Smt. Sumita Ghosh, opposite party No.2 police submitted charge sheet being charge sheet No. 44 of 2010 on 17th February, 2010 in the Court of the learned Additional Chief Judicial Magistrate at Alipore. The case was subsequently transferred to the 7th Court of the learned Judicial Magistrate, Alipore, South 24 Parganas. It is submitted by the learned advocate for the petitioner that charge was framed against the accused person under Section 498A/34 of the Indian Penal Code on 15th May, 2013. Subsequently, trial of the case has not been concluded during the last nine years.

It is also submitted by the learned advocate for the petitioner that on 6th April, 2021 the petitioner filed an application stating, inter alia, that both the petitioner and the private opposite party are deaf and dumb persons and, therefore, an interpreter may be engaged to explain the evidence of the prosecution to the accused. The learned Magistrate took into consideration the provision of Section 279 of the Code of Criminal Procedure and came to the conclusion that when an advocate is engaged on behalf of the accused/petitioner he is competent to make the petitioner understand the evidence adduced by opposite party.

It is needless to say that in case of a deaf and dumb person any statement is required to be interpreted by gesture and movement of fingers. The learned Magistrate failed to consider as to whether the learned advocate for the opposite party knows the signs of interpreting a statement to a deaf and dumb person. It is a special skill which, I believe, even the learned Magistrate does not know.

Therefore, the instant order is liable to be set aside.

Accordingly, the instant criminal revision is **allowed**.

The order dated 6th April, 2021 is set aside.

The learned Judicial Magistrate, 7th Court at Alipore is directed to appoint an interpreter on the prayer made on behalf of the petitioner to make the statement of the opposite party No.2 understand in course of evidence.

Since the case is pending for the last 12 years, the learned Judicial Magistrate, 7th Court at Alipore shall take all endeavour to dispose of this case by the end of the year 2022.

(Bibek Chaudhuri, J.)