

CRR 1716 of 2019
With
CRAN 1 of 2021
(Via video conference)

In Re: An application under Section 482 read with Section 401 of
the Code of Criminal Procedure 1973.

In the matter of : Anurupa Roy

.....Petitioner

Mr. Bikram Banerjeefor the petitioner

Mr. Ranjan Saha ...for the O.P no. 1

Mr. S.G.Mukherjee, Ld. PP.

Mr. Imran Ali

Ms. Debjani Sahu ...for the State

Report so submitted by Mr. Ali, learned advocate for the
State, be kept with the record.

The subject matter of challenge relates to the order dated
4.6.2016 passed by the Additional District & Sessions Judge,
Baruipur, South 24 parganas in connection with ST No. 6(6) of
2016 corresponding to SC No. 7(6) of 2016 arising out of
Sonarpur Police Station case no. 1453 of 2014 dated 28.8.2014
under Sections 493, 376, 417, 468 and 471 of the Indian Penal
Code.

The records of the case was transmitted to the Additional
District & Sessions Judge, Baruipur. The Additional District &
Sessions Judge, Baruipur was pleased to frame charge freshly
under Section 493 of the Indian Penal Code.

Subsequently, on 24.6.2019, an application was taken out by the present petitioner being the defacto-complainant which was rejected by the Additional Chief Judicial Magistrate, Baruipur.

The genesis of the problem arose because of the order dated 4.6.2016 wherein the Sessions Court was pleased to come to a conclusion for alleged offence under Section 493 of the Indian Penal Code without discussing as to why, rest of the sections on which the Investigating Officer has filed a charge-sheet, is not applicable in this case. The said order was a cryptic order and should have referred to the facts or the reasons for non-applicability of the sections.

The Additional Chief Judicial Magistrate, Baruipur was bound by the order passed by the learned Sessions Judge and as such he could not deviate for addition or deletion of any section and framed charge under Section 493 of the Indian Penal Code as was decided earlier by the learned Sessions Court.

The order dated 4.6.2016 passed by the Additional District & Sessions Judge, Baruipur, South 24 parganas, is bereft of any reasons and is not a speaking order.

Consequently, as the records reflect that the evidence has already commenced, I give liberty to the present petitioner being the defacto-complainant to take out an application under Section 319 of the Code of Criminal Procedure at the appropriate stage of the trial and the learned trial Court, if it is satisfied that prima facie materials are appearing for further proceeding under different set of sections which may not be within the domain of the learned Magistrate, the learned Magistrate will be at liberty to come at a fresh finding and commit the case to the court of

sessions for further consideration and for being disposed of in accordance with law.

With the aforesaid observations, CRR 1716 of 2019 is disposed of.

Interim order, if any, is hereby vacated.

Pending application, if any, is consequently disposed of.

All parties are to act on the server copy of this order, duly obtained from the official website of this Court.

(Tirthankar Ghosh, J.)