

16.03.2022

Item No.10
Ct.No.34
dc.

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

C.R.R. 2164 of 2018

**Sagarika Kayal & Anr.
versus
Tumpa Sardar & Anr.**

In Re: An Application under Sections 397/401 read with Section 482 of the Code of Criminal Procedure, 1973.

Mr. Uday Sankar Chattopadhyay,
Mr. Santanu Maji,
Ms. Snigdha Saha,
Mr. Pronay Basak,
Mr. S. Das,
Ms. Trisha Rakshit ... For the Petitioner.

Mr. Sudip Ghosh,
Ms. Debjani Sahu ... For the State.

Mr. Chattopadhyay, learned advocate appearing for the petitioner submits that the petitioner was handed over with the victim child when she was six month's old by the *de facto* complainant. Learned advocate submits that there was a mental attachment regarding upbringing of the said child and all on a sudden by institution of the case under Sections 363A/366A/120B along with other sections of the Indian Penal Code, the *de facto* complainant tried to snatch away the child after about six years of she being handed over. Learned advocate submits that there has been a mental attachment with the child, however, pursuant to the order of the learned court, the child had to be handed over because of the findings of the learned Additional Sessions Judge, 17th Court, Alipore.

Mr. Ghosh, learned advocate appearing for the State submits that in this case after investigation, the Investigating

Officer arrived at a finding “FRMF” thereby meaning that it is a case of mistake of fact. It is his submission that also ultimate welfare of the child has been the very intention of the legislature under various provisions of laws.

Without entering into the rights of the present petitioner, I grant liberty to the petitioner that in case the petitioner invokes the relevant provisions of the Guardians and Wards Act or the provisions of Juvenile Justice (Care and Protection of Children) Act or the provisions of the Hindu Adoptions and Maintenance Act, the concerned authority would consider the prayer of the petitioner in accordance with the relevant law without being influenced by any observation made by the learned Sessions Judge in his order dated 07.06.2018 in Criminal Motion No. 258 of 2017.

With the aforesaid observations, the revisional application being CRR 2164 of 2018 is disposed of.

Interim order, if any, is hereby vacated.

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.)