

D/L72
August 17,
2022
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C.R.R 2778 of 2009

In Re: An application under Section 482 read with 483 of the Code of Criminal Procedure;

Sri Debabrata Bose
Versus
The State of West Bengal

Mr. Achin Jana,
Mr. Prosenjit Ghosh,
Ms. Gargi Dhang.
...for the petitioner.

Mr. Md. Anwar Hossain,
Ms. Manisha Sharma.
...for the State.

Mr. Achin Jana, learned advocate appearing for the petitioner challenges the continuance of the proceedings under Section 197 of the Code of Criminal Procedure and submits that the act and action of the petitioner invites the invocation of the said provisions as the petitioner was discharging his duty at the railway station at the relevant point of time and the complainant was at fault. After detection of the fault committed by the complainant, a story has been manufactured to implicate the present petitioner which is an afterthought and the trapping of the instant case even it is accepted to be true particularly the factum of the complainant being taken to the Chief Ticket Checker's office/room and thereafter assaulted do make out a case for interference. None of the witnesses cited, according to the learned advocate, are associated with the railway department and only the friends and relations of the

complainant have been cited as a witness in order to bolster a case.

Mr. Anwar Hossain, learned advocate appearing for the State earlier submitted a report which reflects that the next date has been fixed on 18th January, 2023 for framing of charges.

Today, Mr. Hossain, learned advocate appearing for the State produces the case diary which do not contain the medical report of the doctor or any statement of the doctor although the doctor has been incorporated as a charge-sheet witness.

I have considered the contentions advanced by the petitioner as well as that of the State, I find substantial force in the submission of the petitioner that sanction is required for further prosecution. However, the records of the revisional application also do not contain the documents under Section 207 of the Code of Criminal Procedure which were available at the relevant point of time when the application for discharge was filed before the jurisdictional court. The only documents which have been relied upon by the petitioner are the report under Section 173 of the Code of Criminal Procedure and impugned order passed by the learned trial court. This Court on an inspection of the same is of the opinion that it is not possible for High Court to adjudicate and come to a finding only on the basis of a report under Section 173 of the Code of Criminal Procedure or the order passed by the learned jurisdictional court.

Having regard to the same, the petitioner is granted liberty to agitate the points canvassed in this revisional application along with the documents under Section 207 of the Code of

Criminal Procedure to demonstrate before the learned jurisdictional court on 18th January, 2023 regarding want of sanction for further proceedings in connection with Howrah G.R.P.S. Case No.74/06 under Sections 341/323/384 of the Indian Penal Code corresponding to G.R.P.G.R. Case No.38/06.

With the aforesaid observations, CRR 2778 of 2009 is disposed of.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)