

CRR 2524 of 2005

In the matter of : Indradeo Chowdhury

Mr. P. Bhattacharyya
M.F.A. Begg

... for the State

None is appearing on behalf of the petitioner.

Since this matter is pending for the last seventeen years, I propose to dispose of on merit based on materials on record.

By filing this application under Section 482 of the Code of Criminal Procedure, the petitioner is praying for an order of quashment of the charge sheet no. 15 /03 dated 12.12.2003 under Section 304 of the I.P.C. pending before the learned Sub-Divisional Judicial Magistrate, Rampurhat, Birbhum in G.R. No. 347/98 arising out of Sainthia G.R.P.S. Case No. 18 / 98 dated 10.8.98.

Briefly stated Smt. Chanchala Singh filed a petition of complaint before the learned Chief Judicial Magistrate, Birbhum stating inter alia that her son Kanchan Singh aged about 14 years used to work for gain in Munpari bedding shop. On 13.6.1998 in between 9 to 9.30 P.M. her son Kanchan after having dinner went to the railway track to relieve himself. After a while the petitioner got attracted by the sound of firing and went to the railway line near her house and found that her son Kanchan sustained bullet injury. The RPF was taking the body of her son into a railway wagon. People assembled there and resisted the move, Kanchan was taken to hospital where he was declared dead. Subsequently

Smt. Chanchala Singh came to know that RPF constable Indradeo Chowdhury opened fire from his service rifle and bullet struck her son who succumbed to bullet injury. The said petition of complaint was forwarded to the Officer-in-Charge, Sainthia G.R.P.S. under Section 156(3) of the Code of Criminal Procedure, Sainthia G.R.P.S. Case No. 18 / 98 dated 10.8.98 was registered. Police took up investigation but submitting final report police prayed before the learned Trial Court for discharge the accused Indradeo Chowdhury for want of evidence to constitute offence within the meaning of Section 304 of I.P.C. The complainant Chanchala Singh however, was not ready to accept such report of police and she filed a petition challenging the finding of investigating agency as to the closure of case. The report submitted by the Investigating Officer seeking discharge of accused person was not accepted by learned S.D.J.M. Rampurhat. The investigation was held afresh which resulted into submission of charge sheet under Section 304 of I.P.C. against the accused person.

From the annexures made to the petition, I find that over the incident of firing police authority conducted court of enquiry and after enquiry the competent authority found justification on the part of constable Indradeo Chowdhury, who according to the enquiry report was compelled to open fire to protect the national treasurer, which the victim and his companion tried to loot by breaking open a wagon. The Court of inquiry also recommended reward for the said constable. Admittedly there is no eye witness to the alleged incident from among member of public and the Court of inquiry report has given a clean chit to the RPF constable. It is

settled principle of law in criminal jurisprudence when that two views are possible, one that tilts in favour of the accused should be accepted. In this case the Court of inquiry findings speaks in favour of the accused person justifying his action to open fire in discharge of his duty, therefore, to allow this proceeding to continue would not yield any result. The entire exercise on the part of the State in proceeding with this case would predictably result into an order of acquittal.

Under such circumstances, I am inclined to invoke the inherent jurisdiction to quash the proceeding pending before the learned S.D.J.M. R.P.H. (as then was).

The criminal revision is disposed of without any order as to costs.

The copy of the order be sent down to the learned Trial Court for information and necessary action.

The parties shall act upon the server copy 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 completion of requisite formalities.

(Siddhartha Roy Chowdhury, J.)