

04-02-2022
Subha
Item no.26
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
(Via video-conference)

C.R.R 2496 of 2019

In Re: An application under Section 482 of the Code of Criminal Procedure.

In the matter of : Surajit Roy ...Petitioner.

Mr. Apalak Basu
Mr. Mukundalal Sarkar
Ms. Sneha Seth

....for the petitioner.

Mrs. Anasuya Sinha
Mr. Pinak Kumar Mitra

....for the State.

Mr. Debashis Banerjee
Ms. Mamata Pandit

...for the Opposite Party no. 2.

Mr. Basu, learned advocate appearing on behalf of the petitioner challenges the chargesheet which has been submitted in connection with Bidhannagar Cyber Police Station Case No. 82 of 2018 under Sections 354A/354D/500/507/509 of the Indian Penal Code.

Learned advocate for the petitioner tries to impress upon this court that the allegations which have been made in the F. I. R as also in the chargesheet fails to comply in respect of the sections which have been incorporated in the chargesheet and alleged to have been committed.

Mrs. Sinha, learned advocate appearing on behalf of the State

submits that on perusal of the F.I.R as well as the chargesheet and the documents, which have been collected in course of investigation which is revealed from the case diary, prima facie, makes out an offence, the applicability of the sections are to be considered on a detailed assessment of the facts.

Mr. Banerjee, learned advocate appearing on behalf of the private opposite party expresses his grievance regarding the non-incorporation of the provisions of the Information Technology Act, 2000 and submits that appropriate applications have been preferred before the jurisdictional court.

Having regard to the materials which are appearing in the case diary, I am of the opinion that the alleged offences complained of cannot be brushed aside simply on denial or narration of facts so far as the applicability of the sections which the police authorities have alleged, the same may require scrutiny by the jurisdictional court.

Thus, no interference by this court can be made by exercising its power under Section 482 of the Code of Criminal Procedure at this stage.

The petitioner is at liberty, if so advised, to take out an application under Section 239 of the Code of Criminal Procedure.

The learned Magistrate will assess the materials on record and thereafter come to a finding regarding the applicability of the sections on which the charges would be framed.

With the aforesaid observations, the revisional application being CRR 2496 of 2019 is disposed of.

Interim order, if any, is hereby vacated.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

All concerned parties are to act in terms of a website copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]