

29.11.2022
Item No. 08
BR

CRR 3043 of 2009

In the matter of : Sumitra Devi Bathwal

Mr. Milon Kumar Mukherjee, Senior Advocate,
Mr. S. Sarkar,
Mr. Vidya Bhusan Upadhya
.... For the petitioner

Mr. Madhu Sudan Sur,
Mr. Dipankar Pramanick ... for the State

This is an application under Section 482 of the criminal Procedure Code seeking quashment of proceeding pending before the learned Chief Judicial Magistrate , Alipore in CGR case No. 632 of 2009 where learned Chief Judicial Magistrate , Alipore was pleased to take cognizance of the offense under Section 307 of the Indian Penal Code against the petitioner who is co-accused in the said case.

Briefly stated the victim lady the opposite party no. 2 used to earn her bread working in the house of the petitioner as domestic help where she was fallen prey to the lust of the husband of the petitioner and was sexually exploited . The petitioner being the wife of the said man when came to know about the incident from the victim girl, who disclosed everything in presence of the husband of the petitioner, the petitioner suffered huge shock and she made an attempt to punish the girl. She approached the girl with a bottle containing liquid substance and a lit up candle. The victim girl pushed the lady, the candle, however, caused burn injury on the back side of the wrist of the lady. The victim girl informed the

incident to the local police station and having found disclosure cognizable offense Gariahat P.S no.34 dated 19.2.2009 was registered. After investigation police submitted charge sheet. Drawing my attention to the statement made by the victim under Section 164 of the Cr P C as well as the injury report Mr. Dipankar Paramanick , learned counsel representing the State submits that the conduct of the lady is eloquent about her intention to kill the victim girl otherwise she would not have approached the girl with the burning candle and inflammable substance .

Upon perusal of the injury report I find that the victim suffered burn injury but on the rare part of her right wrist. The place of injury , in my humble opinion wiped out ingredients of offense within the meaning of Section 307 of the Indian Penal Code . A report has come from the learned counsel representing the State pursuant to the direction given by this Court. The report contains the statement of one Haren Chandra Manna who happens to be the brother –in-law of the victim. Said Mr. Manna informed the police that the victim girl has started her life a new. She is now now married to a man and is mother of a child aged about 6 months. Despite service of notice the victim girl did not turn up before this Court and I can appreciate practical reasoning behind such decision of the victim girl. True , it is that there is no ingredient of offense within the meaning of Section 307 of the IPC but there may be ingredient of offense within the meaning Indian Penal Code committed by the lady . However, considering the social standing of the victim as on date, in my view this proceeding should be quashed and accordingly invoking the provision of Section 482 of Cr P C I quash the proceeding qua the

petitioner Sumitra Devi Bathwal. Interim stay, if any, stands vacated.

Let a copy of the lower Court record be sent to the learned trial Court for information and necessary action.

All parties are to act on the server copy of this order duly downloaded.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Siddhartha Roy Chowdhury, J.)