

21.03.2022

Item No.66
Ct.No.34
dc.

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

**C.R.R. 3706 of 2017
with
CRAN 1 of 2021**

**Gouranga Mullick
versus
The State of West Bengal & Ors.**

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973 filed in connection with G.R. No. 2240 of 2016 arising out of Joynagar Police Station Case No. 380 of 2016 dated 25.03.2016 under Sections 498A/302 of the Indian Penal Code.

Mr. Jayanta Narayan Chatterjee,
Mr. Apalak Basu,
Ms. Nandini Chatterjee,
Ms. Jayashree Patra,
Ms. Sreeparna Ghosh,
Mr. Suvrodeep Koley,
Ms. Dipanwita Das ... For the Petitioner.

Mr. S. G. Mukherjee, Ld. P.P.,
Ms. Sreeparna Das ... For the State.

Report dated 14.03.2022 submitted by Ms. Das,
learned advocate appearing for the State be kept on record.

I have perused the case diary and the statements of the witnesses which have been recorded in connection with the investigation of the instant case. Few of the witnesses, on whom the prosecution has relied upon, have alleged regarding the victim to be set on fire at the instance of the accused person. I find some of the witnesses have also stated that the victim has set herself on fire. The investigating authority on conclusion of investigation has submitted charge-sheet only under Sections 498A and 306 of the Indian Penal Code. The conclusion at this stage, therefore, is that an

offence has been committed. The said offence was arising out of a matrimonial discord which resulted in the death of the victim. As the supporting witnesses by their statements before the police officer/investigating officer are divided in opinion regarding their understanding of the victim's life coming to a halt, I am of the view that the learned trial court, while considering the charge, should keep the case open both for charges under Section 302 of the Indian Penal Code and Section 306 of the Indian Penal Code until and unless the court comes to a definite conclusion at the end of the trial as to under which section the evidence has surfaced for arriving at its conclusion.

There is a grievance expressed by the *de facto* complainant of the case regarding some of the witnesses having not been examined which could have supported the prosecution case as they were residing in the near vicinity of the matrimonial home of the deceased. In case, in course of the trial, the names of such witnesses transpire, the learned trial court would be at liberty under Section 311 of the Code of Criminal Procedure to exercise its jurisdiction for the ends of justice to consider whether their evidence are required for the just decision of the case.

The jurisdictional court will proceed with the trial of the case as expeditiously as possible as the incidents referred to are of the year 2016.

With the aforesaid observations, the revisional application being CRR 3706 of 2017 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.)