

05-01-2022
Subha
Item no. 25
Ct no.34

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

C.R.R 1643 of 2020

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

In the matter of : Motaleb Mondal @ Motalep Mondal & Anr.
...Petitioners.

Mr. Mrityunjoy Chatterjee
....for the petitioners.

Mr. Swapan Banrejee
Mr. Suman De
..... for the State.

Mr. Chatterjee, learned advocate appearing for the petitioner challenges the First Information Report and all subsequent proceedings relating to Domkal P. S. Case No. 166 of 2020 dated 19th March, 2020 under Sections 376(D)/325 IPC.

According to learned advocate, the date of the offence was 15th March, 2020 and the time of the alleged offence is at 20.20 hrs.

Learned advocate appearing on behalf of the petitioner first questions regarding the time of the medical examination. According to him if the offence was committed at 20.20 hrs then how can the medical examination be done at 18.00 hrs.

The next issue which has been canvassed by the learned advocate for the petitioner is that as the certified copy issued by the learned Chief Judicial Magistrate, Murshidabad reflects that on 14th

June, 2020 the chargesheet was submitted before the court and the chargesheet which was submitted was dated 26th June, 2020.

Learned advocate for the petitioners further raises the issue that the statement of the victim under Section 164 Cr.P.C was recorded on 19th June, 2020 and the same is impossible in view of the fact that the chargesheet was submitted on 14th June, 2020.

A report was called for from the concerned Officer of the Domkal P.S.

According to the report, on 1st July, 2020, chargesheet was submitted before the learned Chief Judicial Magistrate, Murshidabad .

Let the report submitted by the S. I. of Police, Domkal P.S., Murshidabad PD through the learned advocate for the State be kept with the record.

The certified copy which reflects that on 14th June, 2020 chargesheet was received and cognizance was taken ex facie is a clerical error and negligence has been shown by the Department of the learned Chief Judicial Magistrate, Murshidabad as no chargesheet could be submitted on 14th June, 2020, as the date of the chargesheet is of 26th June, 2020. In fact, the certified copy of the chargesheet which has been enclosed in the revisional application reflects that 26th June, 2020 is the date of Chargesheet No. 301 of 2020.

So far as the issue of the medical examination is concerned, I find that the medical examination was done on 19th March, 2020 and there is no bar of conducting medical examination prior to the registration of the F. I. R and relying on such medical report at the time or during the course of the investigation, the charges complained

of are very serious being Section 376(D) of the Indian Penal Code.

Report also reflects that the High Court has rejected the anticipatory bail of the present petitioner.

The Department or the concerned Officer of the learned Chief Judicial Magistrate, Murshidabad was grossly negligent in recording the date.

Accordingly, the District Judge, Murshidabad is directed to conduct an enquiry against the officer who has recorded the date on 14th June, 2020 and the order passed therein and pass suitable directions including actions, if required for preparing a court record in a Sessions triable case in such a negligent manner.

Report of compliance should be sent to the learned Registrar(Judicial Service), High Court, Calcutta.

So far as the issues which have been canvassed are concerned the same are of no relevance in the facts and circumstances of this case.

Accordingly, the present revisional application being CRR 1643 of 2020 is dismissed.

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

[Tirthankar Ghosh, J]

