

09.09.2022

Item No.29

Ct.No.2

dc.

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 145 of 2021

**Kirity Roy
versus
The State of West Bengal**

In Re: An Application under Section 482 read with Section 401 of the Code of Criminal Procedure, 1973.

Mr. Arijit Ghosh,
Ms. Swarnali Ghosh (Sengupta) ... For the Petitioner.

Mr. Aditi Shankar Chakraborty,
Mr. Nilay Chakraborty ... For the State.

The present revisional application has been preferred challenging the proceedings arising out of Dinhata Police Station Case No. 259 of 2018 dated 19.07.2018 under Sections 341/186/353/427/506/34 of the Indian Penal Code.

Records of this revisional application reflect that charge-sheet was submitted on 30.11.2018 wherein the investigating agency on conclusion of investigation, charged the petitioner and others for offences under Sections 341/186/353/506/34 of the Indian Penal Code.

I find that the documents under Section 207 of the Code of Criminal Procedure on which the prosecution proposes to rely upon has not been served upon the petitioner and others. This revisional application has been filed enclosing the order-sheets, the complaint, formal FIR

and the charge-sheet which are not exhaustive enough for adjudication of the proceedings for the purposes of quashing. The only issue which can be adjudicated relates to the applicability of Section 186 of the Indian Penal Code. In view of the bar provided under Section 195 of the Code of Criminal Procedure, the incorporation of Section 186 of the Indian Penal Code in the charge-sheet is hereby quashed.

So far as the offences are concerned and their applicability in the charge-sheet and the evidence so collected, the learned trial court would consider the issue at the time of consideration of charges.

Needless to state that this Court has not gone into the merits of the applicability of the Sections in respect of the materials appearing against the accused persons or the charges supporting the prosecution case. The learned trial court would independently consider the same and the petitioner would be entitled to agitate the points canvassed in this revisional application before the learned Magistrate at that stage.

With the aforesaid observations, the revisional application being CRR 145 of 2021 is partly allowed.

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.)