

24-01-2023
Subha
Item no.09
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 202 of 2021

Sahin Akhter
-versus-
The State of West Bengal & Anr.

Re : An application under Ss. 397/401 read with S.482 of the Code of Criminal Procedure.

Mr. Sabyasachi Banerjee
Ms. Diksha Ghosh

...for the petitioner.

Mr. Saibal Bapuli, Id. APP
Mr. Arijit Ganguly
Mr. Bibaswan Bhattacharya

.. ...for the State.

Mr. Banerjee, learned advocate appearing for the petitioner challenges the order dated 19.02.2020 passed by the learned Additional Sessions Judge, First Track Court II, Islampur, Uttar Dinajpur in connection with Sessions Case No. 88 of 2019 arising out of Chopra P. S. Case No. 993/2015 u/s. 302/34 IPC.

Learned advocate for the petitioner has challenged the observations of the learned trial court in the order dated 19.02.2020 to the effect that the statement of the witnesses are devoid of any allegation of abetment and is too premature to be interfered with. Criticizing such order, learned advocate submits that even if the statements, which have been relied upon by the prosecution under Section 207 of the Code of Criminal Procedure, are accepted in its

entirety, the same fails to make out a case under Section 306 of the Indian Penal Code.

Learned advocate has also indicated the manner in which a statement under Section 161 of the Code of Criminal Procedure has been recorded and submitted that the cumulative effect of the prosecution case from the statement would reflect the vindictiveness with which present petitioner has been roped in as an accused by way of an afterthought.

Mr. Saibal Bapuli, learned Additional Public Prosecutor appears on behalf of the State. Learned advocate for the State has earlier handed over typed copies of the statement under Section 207 of the Code of Criminal Procedure.

It has been contended on behalf of the State that there is no illegality in the order passed by the learned trial court and the same is not a fit case for interference at this stage without the trial being conducted.

I have considered the submissions advanced by the learned advocate appearing on behalf of the petitioner as well as for the State.

On an assessment of the materials, which are appearing against the petitioner, I am of the opinion that to balance the same within the ambit of 'some suspicion' and 'grave suspicion', this court would go for the later.

So far as the interpretation regarding the fact which has surfaced whether the same would come within the ambit of Section 107 of the Indian Penal Code is left to the discretion of the learned

trial court.

Accordingly, the present revisional application being **CRR 202 of 2021** is **disposed of**.

. Pending applications, if any, are consequently 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]