

05.01.2023
S/L No.5
KS

C.R.R. 244 of 2021
Soma Singha
-Vs.-
The State of West Bengal & Ors.

Mr. K. Ganguly
Mr. T. Mukherjee
.....For the Petitioner
Mr. Arijit Ganguly
Mrs. Debjani Sahu
.....For the State

Report so submitted by the State be kept with the record. Affidavit of service so filed also be kept with the record.

The revisional application was preferred challenging the order dated 22.12.2020 passed by the Learned A.C.J.M., Rahgunathpur, Purulia in connection with Neturia Police Station Case No.135/19 dated 17.11.2019 under Sections 341/ 147/ 148/ 323/ 325/ 379 of the Indian Penal Code. The Investigating Agency on conclusion of investigation submitted charge-sheet under Sections 341/ 323/ 506/ 34 of the Indian Penal Code.

Being aggrieved by such charge-sheet, the complainant filed an application under Section 173(8) of the Code of Criminal Procedure. The main grievance of the complainant was that the injuries which were sustained by the victim was grievous in nature and the provisions relating to Section 325 or Section 326 of the Indian Penal Code were to be incorporated in the charge-sheet and instead of the same, the Investigating Officer projected the offences committed by the accused persons in a diluted manner.

I have assessed the facts of the case which reflect that the incident complained of is of November, 2019, charge-sheet was submitted before the Jurisdictional Court on October, 2020 and the impugned order is of December, 2020.

Having considered the grievance of the petitioner, I am of the view that a Court is never obliged to frame charges on the sections as reflected in the charge-sheet. It is incumbent upon a Court to consider the materials appearing in the prosecution case and, thereafter, frame the charges under the appropriate sections.

In view of the delay which has already occasioned which is more than three years, I direct that the complainant or the victim for the said purpose would hand over the medical documents including the prescriptions with the Public Prosecutor conducting the case. Learned Public Prosecutor will place the same before the Learned Magistrate in seisin of the matter. The Learned Magistrate at the stage of Sections 239/ 240 would take into account the said medical documents alongwith the medical documents already appearing in the Case Diary and, thereafter, come to his finding regarding the appropriate sections applicable for the injuries suffered by the victim. As three years have passed since the victim suffered the injuries, I do not think at this stage, it would be appropriate to send the case for further investigation. The aforesaid steps would suffice the grievance of the complainant/victim.

With the aforesaid observations, C.R.R. 244 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

Interim order, if any, is hereby vacated.

Learned Trial Court is directed to expedite the progress of the case.

All parties are directed to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Tirthankar Ghosh, J.)