

03.04.2023
Jaydev

CRR 650 of 2023

**Debanjan Deb
Vs.
State of West Bengal & Anr.**

For the Petitioner:-

Mr. Sabyasachi Chatterjee, Adv.,
Mr. Imtiaz Akhtar, Adv.

The instant revision is listed under the heading to be mentioned at the instance of the petitioner.

By an order dated 21st March, 2023 this Court dismissed the instant revision granting liberty to the petitioner to agitate points for non application of charge under Sections 274/275/276 of IPC and Section 51(b) of the Disaster Management Act at the time of consideration of charge.

It is pointed out by the learned Advocate for the petitioner that the trial court has already framed charge against the petitioner under Sections 274/275/276 of IPC and Section 51(b) of the Disaster Management Act. Therefore, the liberty given to the petitioner by this Court to raise his contention before the trial court becomes redundant. Therefore, the petitioner has prayed for modification of the order. Generally, after final disposal of a criminal revision the order passed by the revisional court cannot be recalled, reviewed or modified in view of specific bar under Section 362 of the Code of Criminal Procedure. If the prayer made by the learned Advocate for the petitioner on his behalf is to be viewed under the touchstone of Section 362 of the Code of Criminal Procedure this Court cannot but refuse to entertain such prayer. At the same time, it is found from the order dated 21st March, 2023 that while dismissing the revisional

application, this Court was of the view that the petitioner should get an opportunity to plead before the trial court that there is no material to frame charge against him under Sections 274/275/276 of IPC and Section 51(b) of the Disaster Management Act. In view of such peculiar circumstances, this Court is of the considered opinion that Section 482 of the Code of Criminal Procedure saves the inherent power of this Court to give effect to any order to secure ends of justice.

Though, it is ascertained from the learned Advocate for the petitioner that charge has been framed by the trial court, Section 216 of the Code empowers the trial court to alter the charge at any stage if such addition or alteration is necessary.

When the revisional court finds that the petitioner ought to be heard on the question as to whether the trial court was justified in framing the charge under Sections 274/275/276 of IPC and Section 51(b) of the Disaster Management Act, the learned trial judge is directed to give audience to the petitioner and the learned prosecutor on the question of framing of charge under Sections 274/275/276 of IPC and Section 51(b) of the Disaster Management Act and pass a reasoned order before taking up the case for trial.

The order dated 21st March, 2023 is modified accordingly.

(Bibek Chaudhuri, J.)