

24.01.2023

Item No.10
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 549 of 2021

**Sri Sudhangshu Sekhar Das
versus
The State of West Bengal & Anr.**

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

Mr. Pawan Kumar Gupta,
Mr. Sougata Mitra,
Ms. Sofia Nesar,
Mr. Santanu Sett,
Ms. Jahanara Begum ... For the Petitioner.

Mr. Swapan Banerjee,
Mr. Suman De ... For the State.

This revisional application was preferred challenging the order dated 04.02.2020 passed by learned Additional Sessions Judge, 2nd Court, Purulia in Sppl. Court Case No. 02 of 2014 arising out of Pancha Police Station Case No. 36 of 2013 dated 24.07.2013 under Sections 166/167/409/420 of the Indian Penal Code.

Learned advocate appearing for the petitioner is aggrieved by the manner in which the learned trial court has dealt with the proceedings. It has been emphasised by the learned advocate appearing for the petitioner that the petitioner has been victimised in the present case for which his retirement benefits have been stalled and the instant criminal case was registered in close proximity of time after his retirement. Learned advocate submits that the petitioner being a government servant is protected under the provisions of Section 197 of the Code of Criminal Procedure and the

same having not been applied for by the investigating agency/prosecution, the continuance of the present proceedings become barred under the law. It has been emphasised that the petitioner has been diligently working and rendering his service to the school authorities and it was because of malafide, the present petitioner has been implicated in connection with the instant case. Learned advocate prays for discharge of the petitioner as the application under Section 239 of the Code of Criminal Procedure was not considered seriously by the learned Special Court.

Mr. Suman De, learned advocate appears on behalf of the State and resists the contention advanced by the learned advocate appearing for the petitioner.

I have perused the documents on which the prosecution has relied upon. The main thrust of contention in the prosecution case is that the petitioner stopped coming to school and retained most of the documents which included amongst others various disbursement made under the scheme or the administration of the education department. There were no answers to the next incumbent and as such, the case was registered on the basis of a complaint. In course of investigation, documents have been collected by the investigating agency which reflect that there were disbursement and utilization of the same are not reflected or no documents are available in the school regarding utilization of the same. The stage at which the petitioner has approached this Court relates to whether the criminal case

should further continue or should be quashed at the stage of Section 239 of the Code of Criminal Procedure.

Having regard to the materials collected by the investigating agency and relied upon to prosecute the present petitioner, I am of the opinion that this is not a fit case where the petitioner should be discharged. Let the petitioner face the trial. The points canvassed in this revisional application be addressed by the petitioner in course of his cross-examination and at the stage of final argument of the case. Learned Special Court would consider the same in the background of the evidence so adduced by the prosecution or rebutted by the defence.

With the aforesaid observations, the revisional application being CRR 549 of 2021 is disposed of.

All pending connected applications, if any, are consequently disposed of.

Case diary be returned to Mr. Suman De, learned advocate for the State.

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.)