

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 898 of 2020

With

CRAN 1 of 2020

(Old CRAN No. 1333 of 2020)

Dr. Julfikar Mondal @ Julu

Vs.

The State of West Bengal & Anr.

For the Petitioner : Mr. Sabyasachi Chatterjee,
Mr. Akashdeep Mukherjee,
Mr. Pritam Chatterjee,
Mr. Soumyadeep Nag,
Mr. Arka Pratim Chowdhury.

**For the Opposite Party/
State** : Mr. Binay Panda,
Ms. Puspita Saha.

Heard on : 03.05.2023

Judgment on : 13.06.2023

Shampa Dutt (Paul), J.:

1. The present revisions have been preferred praying for quashing of the Charge-Sheet along with the proceeding in S.C. Case No. 261 of 2017 and G.R. Case No. 1431 of 2013 arising out of Ashoke Nagar Police Station Case No. 181 of 2013 dated 05.04.2013 under Section 304 read

with Section 201 of the Indian Penal Code, pending before the 3rd Additional Sessions Judge at Barasat.

2. The petitioner's case is that the petitioner is a responsible doctor in his locality as well as the owner of his nursing home named as Samraggi Nursing Home at Guma.
3. That as per the written complaint submitted by the de facto complainant/Opposite Party No. 2 herein it is alleged that the de facto complainant brought his wife to the said nursing home owned by the petitioner in search of a gynecologist.
4. The petitioner states that neither was she ever admitted nor treated on that particular day and time as none of the gynecologist were available in the nursing home of the petitioner.
5. The petitioner has been charge sheeted as he is the owner of a nursing home who was unable to admit the patient due to the absence of specialist doctor.
6. It is stated that the wife of the de facto complainant was serious and as per suggestion of the petitioner he took his wife (since deceased) to Barasat Government Hospital and on midway she died.
7. It is submitted that from the entire case diary as well as the charge-sheet it is seen that except being the owner of the concerned nursing home no other crime has ever been committed by the petitioner.
8. Stating the aforesaid facts the petitioner made an application under Section 228 of the Code of Criminal Procedure for discharge but the learned court was pleased to disallow the same as there was some seizure of documents.

9. It is stated that the Police authority has failed to prove that the victim was ever admitted for a single minute in the nursing home of the petitioner.
10. **Mr. Sabyasachi Chatterjee, learned counsel for the petitioner** has submitted that under these circumstances until and unless the entire proceeding is quashed and the petitioner is discharged from the case justice will never be rendered.
11. The entire complaint brought by the de facto complainant is baseless as well as an afterthought and thus not permissible as well as maintainable in the eye of law.
12. The Police authority has acted illegally after being influenced by some politician.
13. That, unless the proper justice is rendered, the petitioner will suffer irreparable loss and injury.
14. **Mr. Binay Panda, learned counsel for the State** has placed the case diary.
15. From the materials in the case diary the following facts are before this Court:-
 - (i) That the complainant took his pregnant wife (26 years) to the petitioner's nursing home on 01.04.2013 at about 10.00 hrs, as his wife was ill with pain in her abdomen.
 - (ii) She was allegedly given an injection and she became more ill.
 - (iii) On 04.04.2013 at about 9 a.m. the complainant was informed that as condition was serious, she had been referred to Barasat District Hospital.
 - (iv) Later she was found dead near the hospital.

(v) Statement of witnesses prima facie shows that the deceased expired in the petitioner's nursing home, but to remove the evidence, he allegedly shifted her to Barasat Hospital.

(vi) In the post mortem report it is noted that as per police inquest the deceased **was declared brought dead by the medical officer, Barasat District Hospital on 04.04.2013 at 2 p.m.** following a history of termination of pregnancy at nursing home (petitioner's).

(vii) As per the opinion of the post mortem doctor, death was due to effects of profuse uterine hemorrhage.

(viii) There is also a Haematoma on the occipital region of scalp.

(ix) Admittedly, the petitioner runs the nursing home, with a certificate of a practicing Hakim in unani medicine.

16. Thus there is prima facie materials on record to show that the deceased was initially treated by the petitioner and sent by him to Barasat District Hospital where the medical officer found the patient dead on arrival. The cause of death is uterine hemorrhage. All these materials against the petitioner are sufficient for the case to **proceed towards trial** to prevent abuse of process of court/law and also in the interest of justice and this is not a fit case where the inherent powers of this Court should be exercised.

17. **The present revisional application being CRR 898 of 2020 is thus dismissed.**

18. No order as to costs.

19. All connected applications, if any, stands disposed of.

20. Interim order, if any, stands vacated.

21. Copy of this judgment be sent to the learned Trial Court forthwith for necessary compliance.
22. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)