

02.2.2023
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SB
Ct. No.236

CRR 893 of 2011
CRAN 1 of 2018

In the matter of : KHUSILAL NASKAR

None is found present on behalf of the petitioner.

This revisional application was filed on 17.3.2011. After more than eleven years I do not find any reason to adjourn the matter suo moto rather I propose to dispose of the revisional application on merit based on materials made available with the record.

Fact of the case is that the opposite party no. 2 Uma Naskar filed a petition of complaint before the learned Sub Division Judicial Magistrate (as then was) Alipore, 24 Parganas (south) being C/1448 of 2000 under Sections 498A / 406 of the Indian Penal Code.

The accused person surrendered to the jurisdiction of the learned Trial Court and was admitted on bail on 06.7.2001 and date was fixed for evidence under Section 244 of Cr.P.C. The complainant adduced evidence on 30.9.2003 as P.W.1. On 30.8.2005 Manturam Sardar was examined as P.W.2. Thereafter on 17.12.2005, Swapan Sardar was examined as P.W. 3. On 29.7.2006 Bithika Sardar was examined as P.W. 4 and on 27.7.2010 Sri Santosh Kumar Sardar was examined as P.W. 5. On 31.7.2010 the accused person filed an application seeking order of discharge under Section 244(3) of Cr.P.C. The learned Trial Court

was pleased to reject the application by the order dated 12.01.2011. Hence this application, under consideration.

Sub-Section 3 of Section 244 (West Bengal Amendment) envisages that if all the evidence referred to in section 244 are not produced in support of the prosecution within four years from the date of appearance of the accused person, the learned Jurisdictional Magistrate may exercise his discretion to record an order of discharge unless in the interest of justice, learned Trial Court thinks its otherwise. The accused person, as I have already pointed out surrendered to the jurisdiction of the learned Trial Court on 06.7.2011 and till the date when impugned order was passed complainant could not produce all the evidence and examine them.

It goes without saying that litigant has right to have expeditious trial. This right is given not only to the complainant or prosecution it is equally given to the accused person. During these long eleven years of pendency of this proceeding, the accused person was found present on nearly all dates. Atleast there is nothing to indicate he was causing impediment in the progress of the trial, rather the complainant could not produce evidence.

Learned Trial Court had the occasion to peruse the evidence of witnesses already examined. Learned Trial Court could have moved further by taking into consideration the evidence on record.

Be that as it may instead of quashing the proceeding, I am inclined to remit the case to the learned Trial Court with a direction to close the evidence for the prosecution and to move to the next

stage of proceeding i.e. learned Trial Court shall consider whether charge should be framed against the accused person under Section 246(2) of Cr.P.C. The proceeding should be concluded within 30.6.2023.

With this observation, the revisional application is disposed of along with application being CRAN 1 of 2018.

The interim order, if any, stands vacated.

(Siddhartha Roy Chowdhury, J.)