

D/L23
11.01.2023
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C.R.R.782 of 2021

In Re: An application under Article 227 of the Constitution of India;

Bomkesh Sett and others
Versus
State of West Bengal and another

Mr. Soubhik Mitter,
Ms. Rajnandini Das.
...for the opposite party no.2.

Mr. Saswata Gopal Mukherjee, Ld.P.P.,
Ms. Zareen N. Khan,
Ms. Sreeparna Das.
...for the State.

The present revisional application was preferred challenging the judgment and order dated 13.03.2020 passed by the learned Sessions Judge, Howrah in Criminal Revision No.102 of 2019 affirming the order dated 05.08.2019 passed by the learned Judicial Magistrate, 5th Court, Howrah in connection with Howrah Police Station Case No.807 of 2014 corresponding to G.R. Case No.9546 of 2014 under Section 354A(1)/354(b)/34 of the Indian Penal Code.

It is reflected that the petitioners filed an application under Sections 137/138 of the Evidence Act read with Section 311 of the Code of Criminal Procedure for recalling the witness who was already examined. Learned Magistrate after relying upon the judgment of the Hon'ble Supreme Court in case of **State (NCT of Delhi) V. Shib Kumar Yadav @ Anr.** reported in **(2016) 2 SCC 402** was pleased to reject the said application. Learned sessions court

on an appreciation of the materials did not differ with the findings of the learned Magistrate and affirmed the said order dated 05.08.2019.

The revisional application was admitted on 17.03.2021. There was no interim order at the stage of admission.

Having considered the time period which has passed in the meantime, which is more than three years since the prayer was rejected by the learned Magistrate and the fact that no question of law has been framed which could show that prejudice has been caused to the petitioners, I am of the opinion further interference by this Court is unwarranted.

Accordingly, CRR 782 of 2021 is dismissed.

Pending application, if any, is consequently dismissed.

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 of all requisite formalities.

(Tirthankar Ghosh, J.)