

IN THE HIGH COURT AT CALCUTTA

Criminal Revisional Jurisdiction

Present: - Hon'ble Mr. Justice Subhendu Samanta.

C.R.R. No. - 856 of 2017

IN THE MATTER OF :

Sahabuddin Mollah

Vs.

The State of West Bengal & Ors.

**For the petitioner : Mr. Kamalesh Ch. Saha, Adv.,
Ms. Payel Mitra, Adv.,**

**For the O.P. No. 4 : Mr. Partha Pratim Das, Adv.,
Mr. Monojit Chakraborti, Adv.,**

**For the State : Mr. Bidyut Kumar Ray, Adv.,
Ms. Sima Biswas, Adv.**

Judgment on : 04 .05.2023

Subhendu Samanta, J.

The instant criminal revisional application has been preferred against the order dated 17th December, 2016 passed by the learned Chief Judicial Magistrate, Barasat, 24-Parganas (North) in connection with G.R. 2724 of 2015 arising out of Habra P.S. Case No. 470 dated

23.07.2015 under Sections 120B/325/307/384/379/387/34 of the Indian Penal Code.

The brief facts of the case is that the present petitioner lodged a written complaint to the Chief Judicial Magistrate, Barasat, 24-Parganas (North) against the present opposite party and others contending, inter alia, that on 09.04.2015 the elder brother of his wife (Sania Parvin) brought the petitioner to his father in laws house and on reaching there he saw his previous wife and her father was present alongwith other accused persons. They rebuked the petitioner with filthy language and they also assaulted the petitioner by feast and blow and he was also subjected to assault by iron lock and he sustained bleeding injury in his head they also snatched his gold ring, wrist watch and Rs.4,000/-.Thereafter, he was recovered by the police. He was admitted to the Hospital for treatment and stitch was administered at his head. It is further case of the petitioner that the accused persons also threaten through phone to pay Rs. 5,00,000/-.

Learned Magistrate after receiving the complaint forwarded the same to the concerned P.S. for investigation treating the complaint to be an FIR. Police conducted investigation and submitted charge-sheet against the four accused persons under Sections 341/323/506/34 IPC. The rest accused persons were not charge-sheeted.

Being aggrieved by the said charge-sheet one Naraji application was filed by the petitioner with a prayer for further investigation which

was turned down by the learned Magistrate by passing the impugned order.

Hence, this revision.

Learned advocate for the petitioner submitted that the impugned order passed by the learned Magistrate suffers illegality and impropriety. Learned court below did not consider the materials on record and passed the erroneous order. He further argued that the prayer for further investigation of the present petitioner should be allowed. The materials in the FIR is very much glaring against all the accused persons but the learned court below has overlooked the materials and passed the erroneous order. He also pointed out that the I.O. was conducted the investigation in a perfunctory manner for which the order of further investigation should be made. He prayed that the impugned order may be set aside and order for further investigation may be passed.

Learned advocate for the State submitted before this court that after receiving the complaint the I.O. has took up the investigation. During the course of investigation, the I.O. visited the P.O. recorded the statement of available witnesses under Section 161 CrPC and after collecting all the materials, I.O. submitted the charge-sheet he placed the Case Diary before this court for perusal. He further argued that the impugned order of the learned Magistrate is a speaking order so it cannot be interfered with .

Learned advocate for the Opposite Party No. 4 support the prosecution.

Heard the learned advocates.

Perused the materials in the Case Diary I have also considered the impugned order passed by the learned court below.

During the course of investigation, the police have recorded the statement of available witnesses including the closed relatives of the petitioner. In passing impugned order, learned Magistrate has perused the Case Diary. It is the observation of the learned Magistrate that the cognizance of the offence has already been taken so at this juncture, it is not possible for the Magistrate to order re-investigation or further investigation.

On perusal of the Case Diary it appears to me that there are no materials to justify the claim of the petitioner. By making further investigation the petitioner's case will not be enriched. The closed relatives of the petitioner stated the fact otherwise to the case of the FIR. I find no cogent materials in the Case Diary against these accused persons who were not charge-sheeted in this case.

This court is exercising its provisional power to assess the legality or propriety of the impugned order passed by the learned Magistrate.

In considering all the materials in the Case Diary and also considering the entire case of the petitioner, I find no justification to

interfere with the impugned order passed by the learned Magistrate. The order of the learned Magistrate is not at all illegal or improper. It is the speaking order so in my view the instant criminal revision is liable to be dismissed as devoid on merit.

In result thereof, the instant criminal revisional application CRR No. 856 of 2017 is dismissed.

All connected applications, if pending, are also disposed of.

Any order of stay passed by this court during the continuation of the instant criminal revision is also vacated.

Parties to act upon the server copy and urgent certified copy of the judgment be received from the concerned Dept. on usual terms and conditions.

(Subhendu Samanta, J.)