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CRR 961 of 2018
IA NO: CRAN 1 of 2018 (Old No. CRAN 1219 of 2018)

Ashok Das
Vs.
The State of West Bengal & Ors.

Ms. Suman Sehauabis (Mondal)
Ms. Atulya Sinha,
Mr. Swaraj Naskar. ... for the petitioner.

Mr. Binay Kumar Panda,
Ms Pusmita Saha. ... for the State.

This revisional application has been filed assailing the Order No. 7 dated 6th February, 2017 in connection with G.R. Case No. 360 of 2016, whereby learned Chief Judicial Magistrate, Sadar Cooch Behar took cognizance of the offence after submission of chargesheet being No.1161 of 2016 dated 29TH November, 2016 under Section 447/323/506 and 34 of the Indian Penal Code against the three accused.

Learned advocate appearing on behalf of the petitioner has drawn my attention to the First Information Report as well as copy of the injury report wherefrom it is seen that injured sustained cut injury and submitted that learned Chief Judicial Magistrate ought to have taken cognizance of the offence under appropriate provisions of Indian Penal code.

Learned advocate appearing on behalf of the State appears and submits that there is scope for alteration of charge in course of trial.

Conjoint reading of Sections 211 and 216 of the Criminal Procedure Code, I find that plea of alteration of charge can be taken either at the time of consideration of charge/framing of charge or at the time of evidence when the court can alter the charge *sou motu* in terms of incriminating materials revealed from the evidence.

Therefore, petitioner is at liberty to avail the opportunity of alteration of charge either at the time of consideration of charge under Sections 211 of the Criminal Procedure Code or at the time of trial under section 216 of the Criminal Procedure Code.

In the aforesaid view of the matter, I find no merit in this revisional application.

With the aforesaid observation, the revisional application stands disposed of.

Pending application, if any, also stands disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

All parties to this revisional application shall act on the server copy of this order downloaded from the official website of this Court.

(Bibhas Ranjan De, J.)

