

**04.01.2023**

Item No.37  
Ct.No.34  
dc.

**IN THE HIGH COURT AT CALCUTTA  
CRIMINAL REVISIONAL JURISDICTION**

**C.R.R. 985 of 2021**

**Tuhin Mallick  
versus  
The State of West Bengal**

**In Re:** An Application under Section 482 of the Code of Criminal Procedure, 1973.

Mr. Uday Sankar Chattopadhyay,  
Mr. Suman Sankar Chatterjee  
Mr. Debdipto Banerjee,  
Ms. Trisha Rakshit,  
Ms. Rajashree Tah ... For the Petitioner.

Mr. Saibal Bapuli,  
Mr. Arijit Ganguly,  
Mr. Sanjib Kumar Dan ... For the State.

Memo of Evidence submitted by Mr. Arijit Ganguly,  
learned advocate appearing for the State be kept on record.

Mr. Chattopadhyay, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated in connection with the instant case. To that effect, the learned advocate draws the attention of the Court to the statements of two witnesses, viz. Somenath Banerjee and Pampa Banerjee. Learned advocate submits that the medical documents, which have been relied upon by the prosecution in order to prove its case, are after a week from the date of the alleged incident took place and cannot be relied upon. Additionally, it has been submitted that the complainant is from a different location. The office of the complainant is also at a different location and there is no scope for the complainant to have a personal knowledge regarding the

incident. Learned advocate submits that because of private and personal dispute between the neighbours, the present petitioner, who is a student and aged about 20 years, has been falsely implicated by the neighbour.

Mr. Arijit Ganguly, learned advocate appearing for the State has produced the case diary which seems to be incomplete.

I have considered the submissions advanced by the learned advocate appearing for the petitioner and the learned advocate appearing for the State. It is a settled principle of law that when the facts are hazy, it would not be fit and proper for the High Court to exercise its jurisdiction under Section 482 of the Code of Criminal Procedure. The contentions of the petitioner that there is no medical document from 01.05.2019 to 09.05.2019 is obviously an issue which requires serious consideration, but at the same time, it has been contended that the puppy was initially treated at St. Micheal Animal Hospital. No document relating to the treatment at St. Micheal Animal Hospital is available or in the alternative any prescription or any document for treatment from 01.05.2019 to 08.05.2019 is available in the case diary which has been produced before this Court.

Having regard to the totality of the circumstances, I direct the learned Magistrate to take the aforesaid issues into consideration while dealing with the case under Sections 239/240 of the Code of Criminal Procedure. The petitioner is granted liberty to agitate the points canvassed in this revisional application at the aforesaid stage.

With the observations made above, the revisional application being CRR 985 of 2021 is disposed of.

All pending connected applications, if any, are consequently disposed of.

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 with all requisite formalities.

**(Tirthankar Ghosh, J.)**