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CRR 1164 of 2016

**Srabani Bera @ Tunga
Versus
State of West Bengal & Anr.**

Mr. Abhinaba Dan.
Mr. Nitish Samanta. ... for the petitioner.

Mr. S. G. Mukherjee, Ld. P.P.
Mr. Faria Hossain
Mr. Anand Keshari.
.... For the State.

Liberty is given to the petitioner to correct the Cause Title.

This revisional application has been filed assailing the order dated 01.03.2016 passed by the learned Additional Sessions Judge, Fast Track Court, Haldia, Purba Medinipur in connection with Sessions Case No. 7(8) of 2015 arose in connection with Durgachak Police Station Case No. 149 of 2013 dated 27.07.2013 under Section 306 of the Indian Penal Code.

On behalf of the petitioner, one application under Section 227 of the Code of Criminal Procedure was filed with a prayer for discharging the accused but the learned Judge after perusal of the documents on record, refused the prayer for discharge on the ground that there were sufficient materials to frame charge against the accused.

Mr. Abhinaba Dan, learned advocate appearing on

behalf of the petitioner has submitted that prior to filing of this case, the accused/petitioner filed one application under Section 156(3) of the Code of Criminal Procedure read with Section 3/ 4 of the Dowry and Prohibition Act and that the application was filed by the petitioner/accused against the in laws including opposite party of this case dated 12.02.2013 before the learned Additional Chief Judicial Magistrate, Haldia.

It is further submitted that subsequently father-in-law i.e. one of the accused of that case took out an application under Section 156(3) of the Code of Criminal Procedure alleging, inter alia, that petitioner by her act abetted the commission of suicide by his son.

It is further submitted by the learned advocate appearing on behalf petitioner that there is hardly any evidence of witness under Section 161 of the Code of Criminal Procedure to prove the prima facie allegation against the petitioner.

Learned advocate appearing on behalf of the State has produced Case Diary and submitted that there are sufficient materials in the Case Dairy to frame charge against the petitioner in this case.

I have gone through the entire record along with Case Diary produced by the State. It is found that previously petitioner filed an application under Section 156(3) of the Code of Criminal Procedure alleging torture on demand of money against in laws including her father-

in-law i.e. opposite party no.2 on 12.02.2013 before the learned Additional Chief Judicial Magistrate, Haldia.

From the record, it father appears that one application under Section 156(3) was filed before the learned Additional Chief Judicial Magistrate by the opposite party no.2 on 27.07.2013 against the petitioner who alleged to have abetted the commission of suicide by his son/husband of the petitioner on 27.06.2013.

On careful perusal of the statement of record under Section 161 of the Code of Criminal Procedure, I find that there was dispute between the husband and wife and other in laws. On perusal of the application under Section 156(3) of the Code of Criminal Procedure, I find that the complaint was lodged on 27.07.2013 whereas son of the opposite party committed suicide on 27.06.2013. No explanation is found in the petition under Section 156(3) of the Code of Criminal Procedure.

It is now trite law that the application under Section 156(3) of the Code of Criminal Procedure shall have to be supported by affidavit and there must be a document showing compliance of Section 154(1) and 154(3) of the Code of Criminal Procedure.

In this case, I do not find either any affidavit or any documents showing compliance of Section 154(1) and 154(3) of the Code of Criminal Procedure.

In the aforesaid view of the matter, after careful perusal on materials and Case Diary along with

application under Section 156 (3) of the Code of Criminal Procedure, I find that the order impugned is not sustainable in law and liable to be set aside as continuing with this proceeding would result in an abuse of process of the Court, and would not serve the ends of justice.

The order dated 01.03.2016 in connection with Sessions Case No. 7(8) of 2015 stands set aside.

The accused stands discharged from the case as well as from the bail bond.

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

Pending application, if there be any, also stands disposed of.

Case Diary be returned.

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.)