

03.04.2023

Item No.50
Ct.No.34
dc.

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

C.R.R. 1227 of 2021

**Ismail Sk.
versus
The State of West Bengal & Anr.**

In Re: An Application under Section 401 read with Section 482 of the Code of Criminal Procedure.

Mr. Partha Sarathi Das,
Md. Hafiz Ali,
Ms. Shanta Sarkar ... For the Petitioner.

Mr. Partha Pratim Das,
Ms. Manasi Roy ... For the State.

Learned advocate appearing for the petitioner challenges the order dated 08.01.2021 passed by learned Additional Sessions Judge, Kandi, Murshidabad wherein the learned trial court was pleased to allow the application under Section 319 of the Code of Criminal Procedure filed by the *de facto* complainant/opposite party no.2 in connection with Kandi Police Station Case No. 320 of 2019 dated 06.08.2019 corresponding to S. SL. 184/2019.

I have considered the order passed by the learned trial court wherein the learned trial court, on perusal of the evidence of some of the witnesses, was of the opinion that there is complicity of the present petitioner in respect of the offences for which the trial is being conducted. Learned advocate for the petitioner disputes such contention and submits that the order under Section 319 of the Code of Criminal Procedure was passed mechanically and there is no reason to pass the order at this belated stage of the trial after examination of 16 witnesses.

Mr. Das, learned advocate appearing for the State, on the other hand, has placed the evidence and drawn the attention of the Court to the evidence of the relevant witnesses to show the complicity of the present petitioner.

I have considered the evidence which is appearing and also taken into account the submissions of the State that there was complicity at the investigation stage also and it is surprising as to why the accused was not sent up for trial in the charge-sheet. Be that as it may, the learned trial court has allowed the application under Section 319 of the Code of Criminal Procedure relying upon the evidence which has subsequently surfaced after charges were framed. Having regard to the reasons so assigned by the learned trial court in its order dated 08.01.2021, I am of the opinion that the same do not call for any interference.

Accordingly, the revisional application being CRR 1227 of 2021 is dismissed.

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.)