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CRR 1244 of 2016
With
IA NO: CRAN 4 of 2018 (Old No: CRAN 635 of 2018)

Mujibur Malkar @ Rahaman
Versus
State of West Bengal & Ors.

Mr. Prosenjit Mukherjee.
Ms. Paulami Dutta. ... for the petitioner.

Mr. Swapan Banerjee,
Mr. Suman De.
.... For the State.

This revisional application has been filed on behalf of the de-facto complainant assailing the order dated 18th March, 2016 in connection G.R. Case No. 335 of 1998 pending before learned Judicial Magistrate, 1st Class, 1st Court, Rampurhat, Birbhum, whereby learned Magistrate refused the prayer of learned Assistant Public Prosecutor for committing record to the court of sessions as there was ingredients of offence under Section 307 of the Indian Penal Code, revealed from the evidence of PW-1 (de-facto complainant). Learned Magistrate refused the prayer only on the ground of examination of the sole witness.

Mr. Prosenjit Mukherjee, learned advocate appearing on behalf of the petitioner has submitted that from the evidence, it is clearly revealed that both the de-facto complainant and his wife were assaulted on their

head and they were treated in Rampurhat, Sub-Divisional Hospital and both of them sustained fracture injury on their head.

Mr. Swapan Banerjee, learned advocate appearing on behalf of the State produced the Case Diary and submitted that there are injury reports showing head injury sustained by both the de-facto complainant and his wife.

I have careful gone through the evidence of PW-1, wherefrom, it is revealed that both the de-facto complainant and his wife were assaulted by the tangi and lathi on their head and as a result they sustained head injury and treated in the Rampurhat, Sub-Divisional Hospital. I find injury reports also in the Case Diary.

In the aforesaid view of the matter, prima facie it is found that both the de-facto complainant and his wife sustained head injury i.e. vital part of the body and for which prima facie offence under Section 307 attracts.

For the reason, the order passed by the learned Judicial Magistrate, 1st Class, 1st Court, Rampurhat, Birbhum dated 18th March, 2016 suffers from illegality and liable to be set aside.

Learned Judicial Magistrate, 1st Class, 1st Court, Rampurhat, Birbhum is requested to commit the record to the court of sessions according to law.

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.)