

M/L16
05.06.2023
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C.R.R. 1804 of 2022

In Re: An application under Section 482 read with Section 401 of the
Code of Criminal Procedure, 1973;

Samsuddin Sk.
Versus
The State of West Bengal

Mr. Manas Kumar Das.
...for the petitioner.

Mr. Anwar Hossain,
Ms. Manisha Sharma.
...for the State.

Mr. Das, learned advocate appearing for the petitioner is directed to serve a copy of the revisional application upon Mr. Anwar Hossain, learned advocate, who ordinarily appears on behalf of the State. His appearance may be regularised by the concerned authorities.

Petitioner is the defacto complainant of the case who is aggrieved by the order dated 02.04.2022 wherein the learned Magistrate was pleased to reject the prayer for further investigation under Section 173(8) of the Code of Criminal Procedure.

The main grievance of the defacto complainant is that one person has died and number of persons have been injured and even after considering the same, the investigating agency without assessing the merits arbitrarily and in cryptic manner submitted charge-sheet under Section 304 of the Indian Penal Code. The other prayers incorporate that certain witnesses were not examined

and the statements were also not recorded under the appropriate provisions of Code.

I have considered the anvil on which the order was passed by the learned ACJM, Kandi, Murshidabad as also the plight of the petitioner. I am of the opinion that the steps which have been recommended by the learned ACJM, Kandi would not in any manner prejudice the defacto complainant of the case.

The case is sessions triable case. Learned Sessions Judge who would be considering the charges would take into account the materials available and while considering the charges would be at liberty to take into account whether the facts appearing from the materials do make out offence under Section 304 of the Indian Penal Code or under Section 302 of the Indian Penal Code. If necessary witnesses have been omitted or accused persons have been left out by the investigating agency, the learned trial court would be at liberty to invoke the provisions of Section 311 as well as Section 319 of the Code of Criminal Procedure at the appropriate stage. It is reiterated that if the case has already not been committed, all steps be taken within one month from date for progress of the case and in accordance with the observations made above.

With the aforesaid observations, CRR 1804 of 2022 is disposed of.

Pending application, if any, is 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 of all requisite formalities.

(Tirthankar Ghosh, J.)