

13.01.2023

Item No.18
Ct.No.34
dc.

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

C.R.R. 1587 of 2021

**Indrajit Giri
versus
The State of West Bengal & Anr.**

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

Mr. Abhijit Basu,
Mr. Arghya Kamal Das ... For the Petitioner.

Mrs. Anasuya Sinha,
Mr. Pinak Kumar Mitra ... For the State.

Mr. Gobinda Chandra Baidya ... For the Opposite Party No.2.

Mr. Basu, learned advocate appearing for the petitioner submits that the petitioner has been implicated in connection with the instant case on the allegation that the petitioner had a relationship with the victim and it has been further alleged that as the petitioner had a relationship with another lady, the victim committed suicide. The investigating agency after registration of the FIR conducted investigation and submitted charge-sheet. In the charge-sheet, the investigating agency relies upon nine witnesses and in serial No. 11 of the charge-sheet (submitted under Section 173 of the Cr.P.C.), two properties have been shown to have been seized which include the mobile phone/set and the IMEI number connected with the said mobile set.

Mr. Basu, learned advocate appearing for the petitioner submits that if the allegations made in the FIR along with the accompaniments particularly, the statements relied upon are taken into account, the same fails to make out a case. It has

been additionally submitted that although the properties have been shown but the CFSL report not being collected, there are no materials to show from the said seized properties that could add to the materials collected by the investigating agency in course of investigation.

Mr. Baidya, learned advocate appearing for the private opposite party no.2 submitted that there are substantial materials collected by the investigating agency in course of investigation and the present petitioner must face the trial of the case as there are specific allegations by the complainant who happens to be the mother of the victim that there was a close relationship with the present petitioner who promised to marry the deceased and subsequently tried to snap the relationship which resulted in the victim deciding to end her life. It has further been submitted that there are corroborating materials which do support the contents of the mother and the statements recorded under Sections 161 and 164 of the Code of Criminal Procedure and are enough to bring home the charges against the present petitioner.

Mrs. Sinha, learned advocate appearing for the State on the earlier occasion has submitted before this Court that the mobile set was earlier sent to CFSL, but they refused to carry out on examination of the same on the ground of their compulsions and thereafter the said mobile set was never sent to any examination centre.

The case is restricted to the statements recorded under Sections 161 and 164 of the Code of Criminal Procedure, the post-mortem report and the supporting medical evidence.

I have assessed the materials appearing in the case diary which include the documents which the prosecution intends to rely upon for proving the case against the present petitioner and another. There are no injuries which are reflected in the post-mortem report except an opinion by the doctor that death was due to hanging which is ante-mortem in nature. So far as the witnesses which have been relied upon, the same include the complainant viz. one Ranu Maity who in her complaint alleged regarding the relationship between the present petitioner and the deceased. She also alleged that there was a close relationship and promise to marry which subsequently snapped at the instance of the present petitioner and the same compelled the deceased to end her life. The complainant in her statement recorded under Section 164 of the Code of Criminal Procedure before the learned Magistrate stated that her daughter was not interested in the petitioner viz. Indrajit Giri. However, the petitioner used to blackmail her and as such both the persons viz. Indrajit Giri and Jayanta Roy were involved in the incident of abetment which led to the deceased committing suicide. Additionally, she stated that the petitioner had a relationship with another girl/lady viz. Monalisa Mondal.

The other chargesheeted witness viz. Manoranjan Giri who happens to be the father of the deceased in his statement before the police officer narrated that the petitioner had relationship with another lady and also with the

deceased and the same is a cause of the deceased committing suicide.

Atanu Sarkar, a chargesheeted witness happens to be the landlord where the deceased used to stay with the tenant. His statement as recorded by the investigating officer reflects that the deceased had relationship with the petitioner. Subsequently the petitioner evaded her and entered into a relationship with another lady.

Tumpa Patra, a chargesheeted witness stated that there was a relationship between the petitioner and the deceased Upama. However, subsequently the petitioner started to evade the deceased and represented to her that it would not be possible for him to marry the deceased and as a result, the deceased committed suicide.

I have considered the submissions advanced by the learned advocates appearing for the parties. On an assessment of the same, I am of the view that the summary of the allegation is that the present petitioner had a relationship with the deceased, he refused to marry her and evaded her and it could be that he developed a relationship with another lady. So far as the allegation made by the mother of the deceased in her statement under Section 164 of the Code of Criminal Procedure is concerned that the petitioner and another blackmailed her, I do not find any materials in the record. The whole case is based on only relationship, evading the lady/deceased and a new relationship being developed at the instance of the present petitioner. It is a settled proposition of fact that different persons react differently

under given situation. It cannot be accepted that breakup of a relationship automatically will bring a person within the ambit of Section 107 of the Indian Penal Code so as to implicate him in a case where one of them decides to end his/her life, there must be some overt act to bring changes under Section 306 of the Indian Penal Code. There are no overt acts involved from where the court would be able to decipher a *prima facie* case being established for relating the petitioner with the alleged offence. It could have been a better case if the investigating agency collected materials, provided they existed that the deceased was blackmailed which compelled her to take a decision to end her life. That being not present in the materials available in the case diary, I am of the opinion that no case under Section 306 of the Indian Penal Code has been made out in connection with the case arising out of Narendrapur Police Station Case No. 276 of 2019 dated 01.03.2019 which is pending before learned Additional Chief Judicial Magistrate, Baruipur which may have become subsequently committed to the learned jurisdictional sessions court.

In view of the observations made above, all further proceedings arising out of Narendrapur Police Station Case No. 276 of 2019 dated 01.03.2019 corresponding to G.R. Case No. 1516 of 2019 are hereby quashed.

The revisional application being CRR 1587 of 2021 is, thus, allowed.

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.)