

D/L74
19.06.2023
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C.R.R.1960 of 2023

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

Kartick Dutta
Versus
The State of West Bengal and another

Mr. Anjan Bhattacharrya,
Ms. Sabana Khatun.
...for the petitioner.

Ms. Anaysuya Sinha,
Mr. Pinak Kr. Mitra.
...for the State.

Mr. Ayan Bhattacharjee.
...for the opposite party no.2.

Learned advocate appearing for the petitioner has challenged the continuance of the proceedings before the learned special court.

Petitioner is directed to serve a copy of the revisional application along with the supplementary affidavit to Mr. Ayan Bhattacharjee, learned advocate empanelled with the High Court Legal Aid Services Authority. His appearance may be regularised by the concerned authorities.

Henceforth till appeal in connection with Special POCSO Case No.39 of 2021 pending before the learned Special Court under POCSO Act, Mr. Ayan Bhattacharjee, learned advocate would be representing the de facto complainant and the victim.

Ms. Anasuya Sinha, learned advocate, who ordinarily, appears on behalf of the State, is directed to represent the State.

Her appearance may be regularised by the concerned authorities.

Learned advocate appearing for the petitioner has tried to canvass the issues firstly regarding the statements made by the victim at the time of lodging the complaint to the police authorities, in her statement under Section 161 of the Code of Criminal Procedure as well as her statement under Section 164 of the Code of Criminal Procedure.

Learned advocate submits that there is palpably difference in the statements so made at three different dates. Learned advocate has also submitted that there were four tenants in the building when the alleged incident if at all took place.

Mr. Bhattacharjee, learned advocate appearing for the victim opposes such contentions and draws the attention of the Court to the relevant provisions of Sections 29 and 30 of the POCSO Act along with factual circumstances which, according to him, make out offence under the relevant provisions of the Indian Penal Code as well as the POCSO Act.

Ms. Sinha, learned advocate appearing for the State also opposes the contentions advanced by the petitioner, draws the attention of the Court to the statement of the witnesses along with the victim and submits that at this early stage without the victim's statement being clarified on dock, the provisions of Section 482 of the Code of Criminal Procedure do not empower the High Court to invoke its jurisdiction to analyse and test the veracity of a witness.

I have considered the submissions of the learned advocates appearing for all the parties and I find that the nature of

contentions advanced in the present revisional application by the learned advocate appearing for the petitioner is to be tested on the anvil of cross-examination. The petitioner would be at liberty to canvass such points at the appropriate stage of the trial. No interference is made at this stage of the case. The trial be concluded as expeditiously as possible.

With the aforesaid observations, CRR 1960 of 2023 is disposed of.

Pending application, if any, is consequently disposed of.

The learned trial court will not take into consideration any observations made by this Court while disposing of the revisional application and would independently arrive at its findings at the end of the trial without being influenced by any observations.

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.)