

11.01.2023

Item No.60
Ct.No.34
dc.

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

C.R.R. 2171 of 2021

**Binoy Majumder
versus
The State of West Bengal & Anr.**

In Re: An Application under Section 482 read with Section 397 of the Code of Criminal Procedure.

Mr. Debopam Roy,
Mr. S. Chakraborty ... For the Petitioner.

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

Mr. Pradyat Saha,
Ms. Sudeshna Biswas ... For the Opposite Party No.2.

The petitioner is aggrieved by the fact that the provisions of SC & ST (Prevention of Atrocities) Act, 1989 have not been incorporated in the charge-sheet. Learned advocate appearing for the petitioner submits that although there were specific allegations by the complainant and his witnesses, yet the investigating agency did not file the report under Section 173 of the Code of Criminal Procedure under the said provisions.

Mr. Banerjee, learned advocate appearing for the State produces the case diary and the Memo of Evidence. Let the Memo of Evidence be kept on record.

Learned advocate for the private opposite party no.2 is present.

I have scanned the case diary, assessed the statement of the witnesses from the point of view of consideration of the

charges. Till the time of consideration of the charges as no further evidence is forthcoming, I am of the view that the referred Sections under the charge-sheet do not call for reconsideration. The matter be remitted back to the learned Additional Chief Judicial Magistrate, Durgapur for trial and disposal. In case in course of the trial, evidence surfaces which may attract the provisions of the Special Act, then in that case, the learned trial court would on an application under Section 319 of the Code of Criminal Procedure decide the next course of action.

With the aforesaid observations, the revisional application being CRR 2171 of 2021 is disposed of.

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.)