

12-06-2023
Subha
Item no.11
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 2647 of 2022

Partha Protim Bose & Ors.
-versus-
The State of West Bengal & Anr.

In Re : An application under Section 482 of the Code of Criminal Procedure.

Mr. Rana Mukherjee
Mr. Kishore Mukherjee
Mr. Sankha Subhra Roy
.....for the petitioners.

Mr. S. G. Mukherji, Id. PP,
Mr. Md. Anwar Hossain
Ms. Manisha Sharma
...for the State.

Petitioners are directed to serve a copy of the revisional application upon Mr. Anwar Hossain, learned advocate who ordinarily appears on behalf of the State. His appointment may be regularized by the concerned Authorities in due course.

Mr. Rana Mukherjee, learned advocate appearing on behalf of the petitioners emphasizes on the initiation of the proceedings arising out of Chetla P. S. Case No. 165 of 2020 dated 17.09.2020.

Learned advocate for the petitioners submits that the present case is a counter-blast of another case being Chetla P. S. Case no. 166 of 18.09.2020. Learned advocate further submits that there are no allegations of Section 354 of the Code of Criminal Procedure in spite of the same the said section has been

incorporated in the chargesheet.

It has also been pointed out that the only words which have been incorporated in the letter of complaint ‘outraging of modesty’.

I have considered the submissions advanced by Mr. Mukherjee, learned advocate for the petitioners. Petitioners approached this court at a stage when the chargesheet has been submitted, the documents under Section 207 of the Code of Criminal Procedure are yet to be handed over/served upon the petitioners or the accused persons. The statement of the lady who complains or whose modesty has been outraged has to be considered in the background of the materials collected by the Investigating Agency. Arriving at a conclusion merely that this case is a counter-blast for the purpose of malafidely implicating the petitioners would be a premature consideration of this court. As such, the petitioners are granted liberty to prefer the application under Section 239 of the Code of Criminal Procedure before the jurisdictional Magistrate after receipt of the copies and documents under Section 207 of the Code of Criminal Procedure. Learned Magistrate would at the stage of the consideration of charges take into account the aforesaid contentions of the petitioners particularly with regard to the applicability of the Section with which they have been charged in the chargesheet including the statement of the lady, if any, regarding the applicability of Section 354 of the Code of Criminal Procedure.

With the aforesaid observations, the present revisional application being CRR 2647 of 2022 is disposed of.

All Pending applications, if any, are disposed of accordingly.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]