

July 20, 2023
AD – 14
Ct. 34
SG

CRR 2617 of 2023

Sidharto @ Siddhartha Padhi
-versus-
State of West Bengal and another

Mr. Anindya Ghosh
Mr. Saptarshi Chakraborty
Mr. Sayan Das
... for the petitioner.

Mr. S.G. Mukherjee, Id. PP
Mr. Pravas Bhattacharya
Mr. M.F.A. Begg
... for the State.

Petitioner is directed to serve a copy of the revisional application upon Mr. Bhattacharya, learned advocate, who ordinarily appears on behalf of the State. His appointment may be regularised by the concerned authorities.

The subject matter of the present revisional application relates to quashing of charge-sheet submitted in connection with Eco Park Police Station Case No.243 of 2022 dated 07.10.2022 under Sections 279/338/427 of IPC. The case is pending before the learned Chief Judicial Magistrate, Barasat, North 24 Parganas.

Learned advocate for the petitioner has drawn attention to the charge-sheet and submitted that the statements of all the witnesses have not been supplied to the petitioner.

I have considered the contention of the petitioner and I find that 8 witnesses have been relied upon in the present

case which includes CSW-1 Sohag Gazi, the complainant, CSW-2 Mahabub Ali, CSW-3 Rashid Ali, CSW-4 Kamal Biswas whose statements are available under Section 207 Cr.P.C. CSW-5 Sk. Nur Nasir Uddin is the witness who issued the mechanical testing report under Section 136 of Motor Vehicles Act, 1998 for both the vehicles being WB-07A-9580 and WB-22F-9707.

So far as CSW-6 is concerned, Rahul Mondal is a doctor whose evidence would be adduced in course of the trial and whose statement under Section 161 Cr.P.C. is not required to be recorded.

CSW-7 is associated with Eco Park Police Station and CSW-8 is the investigating officer of the case.

Therefore, the documents or the statements which the petitioner claims that have not been supplied to him in accordance with law is not acceptable as the same are enclosed along with the present revisional application. On this score the petitioner is not prejudiced.

The next point which has been canvassed by the petitioner relates to the place of occurrence. According to the petitioner, the place of occurrence is stated to be Sunrise Point while the statements under Section 161 Cr.P.C. of the witnesses which has been recorded by the investigating officer states it to be at the gate of Sunrise Symphony Complex. Place of occurrence in a criminal trial is a question of fact and the same is to be appreciated and or rebutted in course of trial.

Needless to state that the present case has a foundation where one person was in a stagnant condition while other person has dashed him when driving rashly and negligently.

The point which has been taken by the learned advocate for the petitioner relating to the mechanical testing report in respect of the two vehicles or two-wheelers, are, that while in case of bullet, there was no damage opined by the mechanical expert, in case of the scooty or the complainant's vehicle/two-wheeler, it was stated that front left side was tilted. The opinion of an expert according to settled proposition is never to be overweighed at the stage of consideration of charges substituting the ocular evidence. At the stage of framing of charges, the evidence of the eyewitness will assume predominance and the expert evidence is a simple corroborating evidence at that stage.

All the issues which have been canvassed in the revisional application are to be decided by way of examination in chief and rebutted by way of cross-examination. None of the points can be decided immediately on question of facts. It is a settled proposition of law, that at this stage the court will not conduct a roving inquiry and whenever a comparison has to be drawn between grave suspicion and some suspicion, the court will tilt in favour of grave suspicion.

Having regard to the documents which have been placed by the investigating agency in support of the case to arrive at its opinion under Section 173 Cr.P.C., I am of the view that this is a fit case where trial must be conducted for arriving at a conclusion.

Accordingly, the revisional application being CRR 2617 of 2023 is dismissed.

Pending application, if any, is consequently dismissed.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)