

D/L441
20.11.2023
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C.R.R.4209 of 2023

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

Dhruba Jyoti Banik @ Drubajoti Banik
Versus
State of West Bengal and another

Mr. Kollok Kumar Basu
Mr. Jannat Ul Firdous.
...for the petitioner.

Mr. Anwar Hossain.
...for the State.

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

The present case was initiated in the year 2012 under Sections 302/34 of the Indian Penal Code. The Investigating Officer on conclusion of investigation submitted charge-sheet before the jurisdictional court against two accused persons, namely Sandip Baidya and Dipak Banik. It was brought to the notice of the learned court that the name of one of the accused person in the FIR was not incorporated in the charge-sheet. Accordingly, the case diary was called for along with the Investigating Officer of the case. The Investigating Officer of the case was present and he submitted before the court that due to unintentional clerical mistake the name of the present petitioner who was named in the FIR was not

included in the charge-sheet. Learned court after accepting such submission issued warrant of arrest against the present petitioner.

Mr. Kallol Kumar Basu, learned advocate appearing for the petitioner submits that it was incumbent upon the Investigating Officer to file a supplementary charge-sheet and the learned court to issue process.

I have considered his submissions and I am of the view that Section 319 of the Code of Criminal Procedure do permit the learned court to implicate a person as an accused on the basis of the materials which according to the learned court deems fit and proper so far as the participation in the offence is concerned. The other issue which has been canvassed that summons should have been issued to the petitioner, I am of the view that prerogative is with the court and having regard to the conduct that a case under Sections 302/34 of the Indian Penal Code has been stalled for about 11 years, there are substantial reasons which justify the learned Magistrate at the first instance to issue warrant of arrest as the case is under Sections 302/34 of the Indian Penal Code. No interference can be made in respect of the order under challenge.

Accordingly, CRR 4209 of 2023 is dismissed.

Pending connected application, if any, is consequently dismissed.

Petitioner would be at liberty to exhaust other remedies available in law.

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.)