

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CRR 4750 of 2022

**Samir Das
Vs.
State of West Bengal & Anr.**

**For the petitioner : Mr. Ayan Basu, Adv.,
Mr. Sourav Bera , Adv.,
Mr. Sumit Routh, Adv.**

Judgement on : 17.01.2023.

Bibek Chaudhuri, J.

The petitioner has challenged an order dated 23rd November, 2022 passed by the learned Judicial Magistrate, 1st Class, 3rd Court at Tamluk, Purba Medinipore in connection with GR Case No. 777/2010 arising out of Tamluk Police Station Case No. 205/2010 dated 28th May, 2010 under Sections 326/34 of the Indian Penal Code.

Suffice it to say that the petitioner is facing trial allegedly for causing assault throwing acid on the body of the victim. It transpires from the evidence that at the relevant point of time electric connection was disconnected from the house of the *de facto* complainant and victim because of non-payment of electric charges. During cross-examination of the Investigating Officer, the defence counsel has raised a specific question as to whether there is any

record in the case diary regarding existence of any light in the place of occurrence at the time of alleged incident. The Investigating Officer replied the said question in the negative. After closure of the evidence of the Investigating Officer the defence counsel filed an application under Section 311 of the Code of Criminal Procedure for according permission of the learned Magistrate to put the following questions:-

- (i) Whether it was recorded in the case diary on the date and time of the occurrence as to the nature/source of light by which the accused was allegedly identified;
- (ii) If the source of light is recorded in the case diary what was the nature of the light.

In my considered view when the Investigating Officer unequivocally stated that there was no mentioning in the case diary about any source of light on the date and time of occurrence the proposed questions may demolish the defence case.

In view of such circumstances, I have no other alternative but to hold that the learned Judicial Magistrate was perfectly right in rejecting the application under Section 311 of the Code of Criminal Procedure. Therefore, I do not find any merit in the instant revision and accordingly the revisional application is summarily dismissed.

(Bibek Chaudhuri, J.)