

28.8.2023
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SB
Ct. No.3

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction
CRR 63 of 2023

In the matter of : Sri Jashpal Pooniya

Mr. Nagendra Nath Das
Mr. Pragyadip Roy Basunia
Mr. Pratyush Adhikary
Ms. Binapani Singha
Mr. Madhab Kr. Roy
Mr. Jagesh Ch. Roy ... for the petitioner

Mr. Debjit Kundu ... for the O.P.

Mr. Arjun Chowdhury ... for the State

This revisional application is directed against the proceeding in G.R. Case No. 3709 / 2019 under Sections 279/338 of the Indian Penal Code arising out of New Jalpaiguri P.S. 822 / 19 dated 08.09.2019 pending before the learned Chief Judicial Magistrate, Jalpaiguri.

Heard Mr. Das, learned counsel appearing on behalf of the petitioner, Mr. Chowdhury, learned counsel representing the State and Mr. Kundu, learned counsel representing the opposite party who happens to be the *de facto complainant*.

Briefly stated, Rasida Khatoon, set the criminal administration of justice into motion by filing an application before the learned Chief Judicial Magistrate, Jalpaiguri on 11.9.2019 stating *inter alia* that on 01.01.2019 her husband was dashed by a motor car bearing no. WB 74I 4579 which was being driven rashly and negligently. Learned Chief Judicial Magistrate, Jalpaiguri having taken cognizance forwarded the petition of complaint under Section 156(3) of Code of Criminal

Procedure to the jurisdictional Police Station and New Jalpaiguri Police Station Case No. 822 / 2019 was registered. Police took up investigation. In the meantime, on 12.3.2020 the accused Jashpal Pooniya surrendered to the jurisdiction of learned Chief Judicial Magistrate, Jalpaiguri. The investigation culminated into submission of charge sheet in the breach of Section 167(5) of Cr.P.C. and learned jurisdictional Magistrate was pleased to take cognizance upon considering the charge sheet on 25.4.2023.

From the attending facts of the case, it is admitted that learned Trial Court took cognizance of offence in the breach of Section 468 of Cr. P.C. in as much as the prescribed period of limitation for taking cognizance is three years as the offence alleged to have been committed is punishable with imprisonment for a term of exceeding one year. Simple arithmetic calculation suggest that learned Trial Court committed jurisdictional error by taking cognizance of the offence ignoring the prescribed period of limitation.

In my considered view, this is a fit case to invoke the provision of Section 482 of Cr. P.C. to avoid the abuse of process of law which I accordingly do. Consequently, the New Jalpaiguri P.S. Case No. 822 / 2019 dated 08.9.2019 in the proceeding being G.R. Case No. 3709 / 2019 pending before the learned Chief Judicial Magistrate, Jalpaiguri stands quashed.

The criminal revisional application is disposed of.

Let a copy of the order and lower court record be sent down to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)

