

05.01.2024
Serial no. 10
[G.S.D]

CRR 10 of 2024

In the matter of : Tapash Ghosh Hazra @ Ganesh & Anr.
... .. Petitioners

Mr. K. K. Basu
MD. J. UL FIRDOUS **... PETITIONERS**

Ms. Manisha Sharma
... for the State

The petitioner is directed to serve upon Ms. Manisha Sharma, Id. advocate, who ordinarily appears on behalf of the State. Her appearance may be regularized by the concerned authority.

The petitioner has challenged the proceedings relating to Burwan P.S. Case No. 201 of 2023 dated 02.06.2023 wherein charge-sheet was submitted under sections 341/325/307/354/34 of the IPC.

Ld. advocate for the petitioner has emphasized only on the issue of applicability of section 307 which has been incorporated in the charge-sheet by the investigating agency.

According to the Id. advocate, on perusal of the injury report it would reflect that the injuries referred to therein are at right wrist, left fore arm and left leg.

Ld. advocate submits that according to the statement under section 161 of the cr.p.c. the injury so reflected was upon the head of the victim. However, the medical report do not state regarding any injuries at the head of the victim and, as such, the provisions of section 307 of the IPC is not attracted as has been referred to by the investigating agency in the charge-sheet.

I have considered the submissions advanced by the ld. advocate on behalf of the petitioner and I am of the view that the stage at which the petitioner has approached this Court is prior to consideration of charges.

At this stage, the duty of this Court is to see whether any offence has been committed or not and not to assess regarding the applicability of the sections. It is for the trial court to decide under which sections from the materials, charges can be framed. It would have been different set of circumstances if any offence were not made out.

In this case, I find that offence has been made out but the issue which has been canvassed on behalf of the petitioner relates to the applicability of the sections under which charges can be framed.

Having regard to the observations made above, I am of the view that the contention so advanced herein would be fit and proper to be addressed and adjudicated by the

concerned trial court at the stage of consideration of charges. No interference is made by this court at this stage.

With the aforesaid observations, CRR 10 of 2024 is disposed of.

Pending application (s), if any, is also disposed of.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court at Calcutta.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Tirthankar Ghosh, J.)