

20-02-2024
Subha
Item no.78
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 603 of 2024

Nakul Bera
-versus-
The State of West Bengal

Mr. Mrityunjoy Chatterjee
Mr. Debapriya Majumder
....for the petitioner.

Petitioner has challenged the order dated 08-09-23 passed in proceedings being S. T. Case No 358 of 2017 arising out of Bantra Police Station Case No. 240 of 2017 wherein chargesheet was submitted under Sections 302/34 IPC and the learned trial court dismissed the prayer for discharge by its order dated 08-09-23 and framed charges on 11.12.23 in connection with S. T. Case No. 358 of 2017. The revisional application is enclosed with the first information report, the orders in respect of an application under Section 439 Cr.PC being CRM 11284 of 2017, the application for discharge and the orders dated 08-09-2023 and 11.12.2023.

The main contentions advanced on behalf of the petitioner is that while considering the bail application the Division Bench of this Hon'ble Court deprecated the manner in which the post mortem was conducted, took steps by way of appointing a separate authority for assessing the correctness and genuinity of the observations made in the post mortem report, directing the superior authority to take disciplinary action against the medical officer

conducting post mortem.

It has been settled by the Hon'ble Supreme Court that excessive reliance on the medical report at the stage of consideration of charges are unwarranted and other attending circumstances are also be to given prime importance. None of the documents under Section 207 Cr.PC have been enclosed along with the revisional application to assess regarding the materials which have been relied upon by the Investigating Agency to arrive at its findings. The purpose of the court at this stage is to assess whether an offence has been made out, thereafter to assess regarding the applicability of the sections concerned. In case the charges have been framed for which punishment is prescribed is higher it would be for the court to decide or alter the charges at any stage of the trial. There are no materials before this court to assess that the petitioner is innocent of the charges as the final prayer which has been advanced before the learned sessions court is for discharging the petitioner.

Having considered the submissions so advanced by the petitioner and the observations made by the learned trial court, I am of the view that the nature of the documents which have been enclosed along with the revisional application do not inspire this court to exercise its jurisdiction for interference with the order already passed by the learned District and Sessions Judge, FTC-3, Howrah. Petitioner would be at liberty to take up the issue relating to the viability and the findings of the post mortem report as well as the other issues at the time of the trial. No interference is made by

this court at this stage.

With the aforesaid observations, the present revisional application being CRR 603 of 2024 is disposed of.

Pending connected applications, if any, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]