

04.03.2024

Item No.82
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 947 of 2023

In the matter of : **Bimal Kumar Pathak** ... Petitioner.

Mr. Debasis Mitra ... For the Petitioner.

Mr. Debashis Roy, Ld. P.P.,
Mr. Arijit Ganguly,
Mr. Koushik Kundu ... For the State.

The petitioner has challenged the charge-sheet submitted in connection with ACB Police Station Case No. 15 of 2017 which has been renumbered as Special Case No. 16 of 2017 and is pending before the learned Additional District and Sessions Judge, Bench-II, Calcutta. The petitioner earlier approached this Court on the ground that his application for discharge under Section 239 of the Code of Criminal Procedure was pending for a considerable period of time. By judgement and order dated 14.09.2022, a co-ordinate Bench of this Court in CRR 3050 of 2022 was pleased to direct the learned Trial Judge to dispose of the application within three months from the date of communication of the order. The petitioner has again challenged the charge-sheet No. 11/2018 dated 24.02.2018 in respect of the same case.

I have considered the order passed by the learned trial court wherein the learned court after considering the materials made available by the prosecution in support of its charges as well as the issues which were canvassed for maintainability of the prosecution under the provisions of

Prevention of Corruption Act dismissed the application under Section 239 of the Code of Criminal Procedure.

Having regard to the reasons so assigned by the learned Judge, Bench-II, City Sessions Court, Calcutta in seisin of Special Case No. 16 of 2017 and the fact that the case arose out of a trap proceedings, I am of the view that the issues relating to preliminary enquiry do not apply in such cases where the commencement of the investigation is immediately after seizure. Without going into the details of the factual circumstances, I am of the opinion that the petitioner fails to make out any case for interference at this stage.

The petitioner would be at liberty to take up the issues so far as the question of facts are concerned in course of the trial and so far as the question of law is concerned, at the final stage of argument of the case.

With the aforesaid observations, the revisional application being CRR 947 of 2023 is disposed of.

Pending connected application, if any, is consequently disposed of.

All concerned 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 with all requisite formalities.

(Tirthankar Ghosh, J.)