

30.04.2024
Serial no. 135
[G.S.D]

CRR 1742 of 2024

In the matter of : Rathindra Nath Mondal @ Rabindra Nath Mondal & Ors.

... .. Petitioners

Mr. Ayan Basu
Mr. Prabir Kr. Das
Mr. Sumit Routh
Ms. Arpita Goswami

... for the petitioners

The present revisional application has been preferred challenging the continuation of Rampurhat P.S. Case No. 332 dated 16.6.2022, wherein charge-sheet has been submitted under sections 341/323/325/307/34 of the IPC.

Ld. Advocate for the petitioners strenuously argues that so far as the medical documents are concerned, the same fails to make out any offence under section 307 of the IPC.

I have considered the submissions of the Id. Advocate for the petitioners and also perused the statements. There is a debatable issue involved so far as the applicability of the section(s) are concerned, which is to be addressed at the stage of consideration of charges; whether the attending circumstances and the medical documents do make out a case under section 323 or Section 325 or Section 307 of the IPC are to be decided at the said stage.

Since the case has already been committed and date has been fixed for consideration of charges, I grant liberty to the petitioners to canvass all these points before the Id. Trial court *in seisin* of the matter by taking out an appropriate application under section 227 of the cr.p.c.

The Id. Trial court is directed to assess as to whether all the Sections which have been referred to by the investigating officer or the prosecution are applicable in the facts of the present case including the materials so collected by the investigating agency.

Needless to state that this court has not expressed its opinion but left out to the Id. Trial court to exercise its discretion judiciously for arriving at a conclusion as to whether any sessions triable case has been made out or not and the Id. Trial court would dispose of the application under section 227 of the cr.p.c. as early as possible.

Liberty is granted to the petitioners to approach this court after the same is assessed by the Id. Trial court in seisin of the matter.

With the aforesaid observations, CRR 1742 of 2024 is disposed of.

Pending application, 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, 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.)