

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 1416 of 2017

Ms. Krishna Jana

Versus

The State of West Bengal & Anr.

For the State : Ms. Faria Hossain, Adv.

Heard on : 16.01.2024

Judgment on : 06.02.2024

Ajay Kumar Gupta, J:

1. Petitioner being the de-facto complainant filed an application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973 challenging the correctness, legality and propriety of the order dated 12th January, 2017 passed by the learned Additional Chief Judicial Magistrate at Uluberia, Howrah in G.R. Case No.

200/2016 appertaining to Shyampur Police Station Case No. 27/2016 dated 28.01.2016 under Sections 302/201 and 34 of the Indian Penal Code.

2. It is the averments of the petitioner that a written complaint was lodged on 28.01.2016 against the eldest brother and son of the deceased to the effect that the opposite party no. 2, Tarak Chandra Jana who on the plea of collection of old age pension from the Gramin Bank at Radhapur took his father Bhagabati Chandra Jana alias Bhagabati Jana and her husband from the house at Jallabaj and intentionally dashed his father on the way near the pole as a result the father of the petitioner Bhagabati Jana expired on 25.01.2016, resulting in registration of an FIR in Shyampur Police Station Case No. 27/2016 under Sections 302/201/34 IPC dated 28.01.2016 against the accused person.

3. The said case was finally culminated and IO of the case has submitted FRT as false vide Final Report No. 76/2016 dated 24.03.2016. In the said proceeding, the petitioner has filed a protest petition dated 18.05.2016 and the same was fixed for final hearing on 12.01.2017. The learned Magistrate accepted the said final report and prayer for further investigation made by the petitioner was rejected.

4. Feeling aggrieved by and dissatisfied with the said impugned order, the petitioner filed this revisional application.

SUBMISSION ON BEHALF OF THE STATE:

5. Learned Advocate appearing on behalf of the State produced the CD and further submitted a report dated 10.01.2024. She submitted the impugned order passed by the learned Magistrate is correct, legal and no perversity. The allegation against the accused person was found false during investigation. IO had gathered the death certificate, medical prescription issued by the medical doctor of Radhapur Gramin Panchayat Hospital and upon perusal of the said documents, the learned Court rightly accepted the final report and rejected the prayer since the death of Bhagabati Chandra Jana was natural due to Myo Cardial infraction at 10.55 pm on 25.01.2016.

6. It is further appeared from the report that the accused/opposite party no. 2, Tarak Chandra Jana already expired on 18.12.2020 and the death certificate is also lying with the record.

7. On the other hand, nobody appeared on behalf of the petitioner. No accommodation was sought for.

DISCUSSIONS AND ANALYSIS BY THIS COURT:

8. Having heard the rival submissions of the State and on perusal of the impugned order as well as materials available in the case diary, this Court finds the death of the patient was natural due to Myo Cardial infraction at 10.55 pm on 25.01.2016. There was no material regarding alleged offence and foul play by the accused person.

9. The doctor also gave a certificate that he was suffering from Asthama and high blood pressure for 10 years and he was under his treatment. The medical documents collected during investigation of Bhagabati Jana also support the version of the doctor, who issued the death certificate.

10. Under such circumstances, the learned Court has rightly accepted the final report and rejected the prayer for re-investigation/further investigation since there was no material available in the CD against the accused person. Furthermore, the accused has expired during pendency of this case.

11. Under the above circumstances, I do not find any illegality or perversity or jurisdictional error in passing the impugned order dated 12.01.2017 by the learned Additional Chief Judicial Magistrate at

Uluberia, Howrah. Furthermore, the case has already been abated due to death of accused person.

12. Accordingly, **C.R.R. 1416 of 2017** is, thus, disposed of with above observations but without order as to costs. CD be returned.

13. Let a copy of this judgment and order be sent to the learned Court below for information.

14. Parties shall act on the server copies of this order uploaded on the website of this Court.

15. Urgent photostat certified copy of this judgment, if applied for, is to be given as expeditiously to the parties on compliance of all formalities.

(Ajay Kumar Gupta, J)

P. Adak (P.A.)