

04-11-2024
ct no. 32
Sl. 29
sp

C.R.R. 2029 of 2022

Shampa Adhikary

-Versus-

State of West Bengal & Ors.

Mr. Sayan Kanjilal

..for the petitioner

Mr. Avishek Sinha

..for the State

Mr. Soumya Basu Roy Chowdhury

..for the opposite party no. 2

1. By filing this Criminal Revisional application under Section 482 read with Section 483 of the Code of Criminal Procedure, 1973, the petitioner herein challenges the Order dated 4th December, 2019 passed by the Learned Chief Judicial Magistrate, Howrah in connection with G.R. Case No. 9512 of 2015 arising out of Chatterjeehat P.S. Case No. 425 of 2015 under Sections 341/323/506 of the Indian Penal Code, 1860 thereby rejecting the protest petition filed by the de-facto complainant challenging the Charge Sheet being No. 61 of 2016 dated 30th March, 2016 and proceeding of the trial in connection with the abovementioned case.
2. It is contended by the petitioner that the victim, namely, Shampa Adhikary, was assaulted by acid

attack. She sustained injury. She was treated in the hospital, namely, South Howrah State General Hospital on 29th December, 2015 wherefrom it reveals that she sustained injury by acid burn and history was also given by the victim with regard to the assault by acid. Despite the said facts, the Investigating Officer has not added Section 326A of the Indian Penal Code, 1860 and two accused persons were discharged. After filing the Charge Sheet, a Protest Petition was filed by the petitioner challenging the Charge Sheet but the said prayer was rejected by the Learned Trial Court.

3. It is submitted that a supplementary affidavit has been filed by the petitioner enclosing the deposition of PW-1, victim Shampa Adhikary. She has stated specifically that the accused Kamal Adhikary had thrown a bottle aiming at her containing liquid. She sustained injury on her hands and lower partition of the body including groin and she felt a burning sensation. It is also corroborated by the medical documents annexed with the Revisional application.
4. The Case Diary, produced by the learned counsel appearing on behalf of the State, indicates she had not stated about the assault by throwing acid. During investigation, statement was recorded by the Investigating Officer under Section 161 of the

Cr.PC from where it also appears that she sustained injury. However, from the statement of the victim recorded under Section 161 of Cr.PC, it was not mentioned about the assault by acid. Due to such reason, Charge Sheet was not submitted under Section 326A of the Indian Penal Code, 1860. During trial, it appears that there are sufficient material with regard to assault by throwing acid and those facts have corroborated by the medical documents. Trial is in progress.

5. In view of the fact, the petitioner is given liberty to make an appropriate application before the Learned Trial Court indicating all the facts that Section 326A of the Indian Penal Code may be attracted in the instant case and same would be triable by the Learned Sessions Judge.
6. Under the above facts and purpose would be subserved if the matter is disposed of with a direction to file appropriate application by the petitioner herein before the Learned Trial Court and the Learned Trial Court shall pass necessary order after considering the materials available in the record in accordance with law.
7. **CRR No. 2029 of 2022** stands disposed of with above observations.

8. Let a copy of this order be communicated to the Learned Trial Court below for information and taking necessary action.
9. In view of the above, connected applications, if any, are also, thus, disposed of.
10. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Ajay Kumar Gupta, J.)