

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 1943 of 2011

Altab Hossain Mollick

-Vs-

The State of West Bengal and Ors.

For the Petitioner : Mr. Kalyan Kr. Bhattacharjee

For the State : Ms. Faria Hossain
Mr. Anand Keshari

For the Opposite Parties : Ms. Sananda Bhattacharyya

Heard on : 01.02.2024, 28.03.2024, 26.06.2024

Judgment on : 13.08.2024

Ananya Bandyopadhyay, J.:-

1. The instant revisional application has been filed by the petitioner in order dated 08.04.2011 passed by the Learned Additional Chief Judicial Magistrate at Diamond Harbour in G.R. No.1658/2010 in connection with Diamond Harbour P.S. Case No.311 dated 20.07.2010 discharging the Opposite Party Nos.2 to 11 under Sections 302/34 of the Indian Penal Code.
2. Considered the contentions of the Learned Advocate for the petitioner as well as the State who refuted the contentions of the Learned Advocate for the petitioner and acceded to the submission of the Learned Advocate for the opposite parties.

3. The petitioner filed an application under Section 156(3) of the Code of Criminal Procedure, inter alia, alleging that his son a child of nine years was murdered by the family members of his estranged wife through poisoning whose body was traced out from the courtyard of the house of accused no.1 after an exhaustive search by the petitioner and his family members on 11.01.2010. The petitioner was denied access to the dead body of the deceased child. Consequently, the petitioner along with others informed the police authorities which transmitted the body of the deceased child at Diamond Harbour Morgue for post mortem. On suspicion of the doctors, the dead body of the child was further sent to State Medicine Medical College, Kolkata for post mortem for unraveling the truth.
4. On 14.01.2010 the petitioner received the deceased child's body and performed the burial rituals in the absence of the mother and her family members at the burial ground. The petitioner suspected that the accused persons with common intention committed the murder of his minor son.
5. The child lost his life on 11.01.2010 and the petitioner conducted the burial rituals of the child on 14.01.2010.
6. The petitioner filed the application under Section 156(3) of the Code of Criminal Procedure on 20.07.2010.
7. In paragraph no.12 of the aforesaid application the petitioner stated "*That though marriage is still exist between your petitioners and accused no-10, she married with Musafir Khan, S/o- Late Baburali of Bilandarpur, P.S.- Magrahat, Dist.- South 24 Parganas.*"

8. In paragraph no.13 of the aforesaid application the petitioner stated, *“That your petitioner was waiting for Administrative Action. But as Police did not take any steps, hence the delay to file the complaint to your Honour’s Court.”*
9. The reason cited by the petitioner explaining the cause of delay to file the complaint is unacceptable. The petitioner could have approached the Court earlier if the Diamond Harbour Police Station and the D.I.G. CID West Bengal, Bhawani Bhawan failed to register the case and investigate the same based on his complaint dated 22.01.2010. The final report filed by the police on 16.02.2011 revealed the absence of evidence against the F.I.R.-named accused persons. Moreover, the witnesses and the post mortem examination report confronted the claim of the petitioner based on his suspicion that his minor child was murdered by the accused persons. The witnesses examined by the Investigating Officers as well as the post mortem report indicated the death of a child due to drowning who had accidentally fallen into the pond out of his playfulness.
10. The powers of High Court under Section 482 of the Code of Criminal Procedure is limited as far as appreciation of evidence on record is concerned who will otherwise reveal a cognizable case to be dealt with by the Learned Trial Court on adducing proper evidence by the disputants.
11. In the instant case, the conduct of the petitioner had been lackadaisical, to have procrastinated the filing of the written complaint on the death of his child. The averments in the application under Section 156(3) of the Code of Criminal Procedure are contradictory to the materials on record. Moreover, the second marriage of the wife grudgingly prompted him to file the instant

complaint without any basis. The revisional application filed by the petitioner is devoid of merits and impugned order is not to be interfered with.

12. In view of the above discussions, the instant criminal revisional application is dismissed.

13. There is no order as to costs.

14. Department is directed to return the case diary forthwith.

15. Let the copy of this judgment be sent to the Learned Trial Court as well as the police station concerned for necessary information and compliance.

16. All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

(Ananya Bandyopadhyay, J.)