

31.01.2024

Sl.No. 52

Ct. 32

Amalranjan

In The High Court At Calcutta
Criminal Revisional Jurisdiction
Appellate Side

CRR 2176 of 2018

Debasish Roy

Vs.

The State of West Bengal and anr.

Ms. Purnima Ghosh.....for the State

Nobody appears on behalf of the petitioner on call.
Even on earlier occasion no one represented the petitioner, no
accommodation sought for.

Learned advocate appearing on behalf of the State has
produced the detail report dated 31.01.2024 filed by the S.I,
Prasanta Biswas, Khardah PS, BKPC, is taken on record.

From the report it appears that 12 witnesses have
already been examined and next date is fixed for further
examination on 19.02.2024 and 20.02.2024 for evidence.

The petitioner, Debasish Roy, being the accused has
been filed this application under section 482 of the Criminal
Procedure Code, 1973 challenging the correctness, legality
and propriety of the order no. 53 dated 18th July, 2018
passed by the learned Additional District and Sessions Judge,
3rd Fast Track Court, Barrackpore, District North 24
Parganas in connection with St-1 (4) 12 (State Vs. Debasish
Roy) arising out of Khardah PS Case 187/2010 dated
13.04.2010 under section 376 Indian Penal Code, 1860,
pending before the aforesaid court.

It is the case of the petitioner that after full examination under section 313 of the Criminal Procedure Code, the learned court below was pleased to fix the matter on 6th December, 2016 for argument.

At that point of time, the prosecution has filed an application under section 311 of the Criminal Procedure Code praying for examination of two chargesheeted witnesses i.e., CSW-11 and CSW-12 both are the Doctors of R.G. Kar Medical College and Hospital, for the reasons that their evidences are necessary for the purpose of proper and effective disposal of the aforesaid proceeding.

The said application was taken up by the learned court below on 18th July, 2018 and after hearing, the prayer was allowed to examine those two doctors.

Under such circumstances, the petitioner came up for set aside the impugned order dated 18.07.2018

Learned advocate for the State submits that those doctors' witnesses are essential for proper disposal of the proceeding as the allegation of rape was upon the victim girl was at the age of 13 years against her step Father.

Subsequently, the alleged offence was detected on the detection of pregnancy of the victim girl when she was carrying two months and her pregnancy was medically terminated at RG Kar Medical College and Hospital.

As such, those doctors are required to be examined for proper and effective adjudication.

This court also finds that those witnesses are vital witnesses for proper and effective disposal of this case.

Learned court below has rightly allowed the said prayer for examination under section 311 of Cr.P.C.

Under such provision, any court may at any stage of any inquiry, trial or other proceeding under the Criminal Procedure Code examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.

Under such circumstances, this court do not find any infirmity, illegality or jurisdictional error or in law in allowing such prayer at this stage of argument.

Furthermore, the case was under process of examination of those doctors because both doctors are essential for just decision of the case.

Accordingly, the application is devoid of merit. Consequently, the instant revisional application being **CRR 2176 of 2018** is dismissed without any order as to costs.

Interim order, if any, stands vacated.

Learned court below is directed to expedite and conclude the trial at the earliest, preferably within 2 months from the next date of hearing.

Let the order be communicated to the Ld. Court below for information.

Liberty is granted to all parties to act in terms of the copy of this order downloaded from the official website of this court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties taking all legal formalities.

(Ajay Kumar Gupta, J.)