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CRR No. 2685 of 2024

In Re: Samrat Roy Chowdhury

Mr. Sourav Chatterjee
Mr. Soumya Nag
... For the Petitioner
Ms. Rituparna Ghosh
... For the State

The petitioner is aggrieved by the order passed by the learned Additional Sessions Judge, Fast Track, 5th Court, Barasat, North 24 Parganas on 13th June, 2024 in Sessions Case no. 119 of 2018 turning down the prayer of the petitioner for supply of copy of the DNA test report and other medical documents pertaining to the case.

Learned counsel for the petitioner takes this Court to an order passed by the learned Additional Chief Judicial Magistrate, Bidhannagar, North 24 Parganas on 20th August, 2014 whereby the learned Magistrate allowed the application of the accused/petitioner for holding DNA test of the accused and that of the foetus/embryo of the victim lady at the cost of the accused. Learned Magistrate directed the investigating officer to arrange for such DNA test through a Government Medical Officer of a Government hospital. Upon completion of investigation, the report of the DNA test was not made over to the accused. In a revisional application being CRR 1892 of 2017 a Co-ordinate Bench of this Court, vide order passed on August 22, 2017,

directed the trial Court to take steps for supply of DNA test report to the petitioner in accordance with law in the event the prosecution chose to rely on such report.

Learned counsel has placed reliance in the authority in ***Criminal Trials Guidelines Regarding Inadequacies and Deficiencies, In re: vs. State of Andhra Pradesh reported in (2022) 1 SCC (Cri) 100.***

By the order impugned, the learned trial Court has held that since the prosecution has chosen not to rely upon the DNA test report and the said document is a document of defence and not that of the prosecution, copy of the same was not required to be supplied to the accused. This observation made by the learned trial Court is not tenable in the eye of law. Since DNA test was conducted in course of investigation of the present case, the accused petitioner is entitled to have a copy of the same along with other medical documents pertaining to the case.

The prosecution has chosen not to rely upon the said document for obvious reasons.

Be that as it may, the order impugned being contrary to the tenets of law is required to be set aside.

The revisional application is allowed.

The order impugned dated 13th June, 2024 passed by the learned Additional Sessions Judge, Fast Track, 5th Court in Sessions Case no. 119 of 2018 is set aside/quashed.

Learned trial Court is directed to take necessary steps for providing the copies of the DNA test report with other medical

documents pertaining to the case to the petitioner on the next date of hearing fixed before him.

Learned counsel for the petitioner submits that the petitioner intends to file an application under Section 227 of the Code of Criminal Procedure before the learned trial Court. In the event the petitioner files such application within a fortnight of receipt of the documents referred to above, the said application shall be decided by the learned trial Court as expeditiously as possible and in any event, before consideration of charge.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)