

CRR 2106 of 2019

**Ms. Pallabi Banerjee
Vs.
The State of West Bengal & Anr.**

For the petitioner : Mr. Bibaswan Bhattacharya,
Ms. Bindia Paul.

For the State : Mr. Rana Mukherjee, Id. APP
Ms. Rita Datta.

For the Opposite Party No.2 : Mr. Dehana Das,
Ms. Swbeta Maity,
Ms. Bhavya Rathi.

1. The present revisional application has been preferred by the petitioner against order no. 20 dated July 18, 2019 passed by the learned Additional Sessions Judge, 3rd Fast Track Court, Barrackpore, North 24 Parganas, in connection with S.T. Case No. 1(5)/2016 under Section 311 Cr.P.C. read with Sections 137 and 138 of the Indian Evidence Act, 1872.
2. On hearing the learned counsel for the petitioner, the opposite party no. 2 including the State and considering the materials on record, this Court finds that the application under Section 311 of the Cr.P.C. filed by the learned Public Prosecutor before the Trial Court does not contain any specific questions which the prosecution intends to put to the witness on recall.
3. On perusal of the written complaint before the Trial Court it prima facie appears that the de facto complainant was aged about 24 years at the time of lodging the complaint. It also

prima facie appears that the accused was married with a family though it is submitted by the learned counsel for the prosecutrix that it was not within her knowledge. It is further stated that the incident occurred as the accused made a false promise to marry the prosecutrix.

4. On perusal of the evidence of the prosecutrix recorded by the Trial Court which started on 01.09.2016 and stood closed on 14.09.2018 (two years), it appears that the prosecutrix as P.W. 1 has categorically stated that she had gone to the accused for tuition.
5. It is submitted by the learned counsel for the petitioner/prosecutrix that the said fact of taking tuition has been denied by the accused, while cross-examining the prosecutrix which reads as follows:-

“Not a fact that I did not visit the house of accused on 18.12.09 and no incident took place on the day as I alleged.

Not a fact that accused never showed his eagerness to impart private tuition to me as he does not impart tuitions to school level students.....”.

6. These are two **denials** against which the learned Public Prosecutor on the prayer of the prosecutrix had prayed for recall of P.W. 1. The evidence which is sought to be clarified by the prosecutrix is only a denial and there is no further evidence on record brought in by the accused and as such, the Trial Court shall decide the evidentiary value of the said evidence, in accordance with law at the appropriate stage. At this stage, the

said portion relied upon by the petitioner does not call for any further clarification as the sentence being mere denial, will not prejudice the petitioner in any manner whatsoever.

7. The order under revision is an extensive order and the learned Trial Judge has passed a well reasoned order which calls for no interference by this Court and accordingly the said order under revision is affirmed.
8. **Accordingly, the present revisional application is dismissed.**
9. The Trial Court shall dispose of the trial within six months from the date of communication of this order, if not already disposed of.
10. All connected applications, if any, stand disposed of.
11. Interim order, if any, stands vacated.
12. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance with all requisite formalities.

(Shampa Dutt (Paul), J.)