

11.11.2024
rc/ct.no.34
Item No.24

CRR No. 3330 of 2024

In the matter of : Manoj Kumar Yadav

.....Petitioner

Mr. Sandipan Ganguly
Mr. Somopriyo Chowdhury
Mr. Avishek Bhandari
Mr. Arkadeb Bhattacharya
Mr. Sachit Talukdar
Mr. Dipayan Dan

...for the Petitioner

Mr. Sudip Kumar
Mr. Mainak Gupta

...for the State

Heard learned counsels for the parties.

The complaint hinges on the unfortunate murder of a learned advocate of Asansol Court, Brojeswar Das. The allegation against the petitioner is under Section 201 of the Indian Penal Code.

Learned counsel for the petitioner submits that no prima facie material has been made out against the petitioner under Section 201 of the Code. The petitioner was not named in the FIR. Only material against the petitioner is the confessional statement of the co-accused of the case. The charge sheet records that after the death of the learned advocate, his wife and father-in-law allegedly contacted the petitioner over whatsapp call who advised them to project the incident as an accident and dispose of the body. It is further recorded in the charge sheet that the wife of the deceased was not convinced by such idea following which the

petitioner advised her to burn the body. No other evidence has transpired against the petitioner during investigation.

Learned counsel for the State refers to the statement of the co-accused as well as other witnesses recorded under Section 161 of the Code of Criminal Procedure.

Upon consideration of the material available before me, it appears that though there is reference of a whatsapp call made to the accused/petitioner by the wife and father-in-law of the deceased, the CDR of the whatsapp call has not been retrieved by the investigating agency. Statement of the co-accused upon which the entire case rests, is not admissible.

Statement of Abhijit Das, son of the deceased was recorded under Section 161 of the Code of Criminal Procedure. Abhijit Das has stated that the petitioner and the mother of Abhijit Das were good friends and he learnt later that his father's mortal remains were burnt on advice of the petitioner. The statement of one Soumen Ghosh, learned advocate of Asansol Court speaks about the association between the petitioner and the wife of the deceased.

In fact, the evidence on record, both oral and documentary, as available in course of investigation of the case does not suggest a prima facie case under Section 201 of the Code against the petitioner. Besides the statement of the co-accused which is inadmissible in evidence in the eye of law, no other cogent evidence as transpired against the petitioner suggesting his involvement in the offence even remotely.

Admittedly the petitioner was a law clerk under the deceased previously. Such previous appointment of the petitioner under the deceased or his regular contact with the wife of the deceased does not under any stretch of imagination implicate him in the present offence. Undoubtly the allegation against the co-accused is that of murder which is extremely serious in nature but at the same time, in absence of any prima facie material against the petitioner under Section 201 of the Code, this Court is inclined to hold that allowing the proceeding to continue against the petitioner shall be an abuse of the process of the Court. Since there is no possibility of the petitioner being convicted on the anvil of the material collected during investigation, he should not be made to suffer the ordeal of a criminal trial which shall be a futile exercise.

In view of the above, the revisional application being CRR No. 3330 of 2024 is allowed.

Sessions Case No. 149 of 2023 pending before the learned Additional Sessions Judge, 3rd Court, Asansol, Paschim Bardhaman be quashed in so far as the petitioner is concerned.

The petitioner be set at liberty at once and be discharged from his bail bond.

Case Diary be returned.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh,J)