

S/L.55
10.01.2024.
pk

C. R. R. 4102 of 2023

Triparna Roy Chowdhury @ Triparna Ray Chowdhury
Vs.
The State of West Bengal and another

Mr. Moyukh Mukherjee,
Mr. Abhijit Singh

...for the petitioner.

Mr. Debasish Roy,
Mr. Arijit Ganguly

... for the State.

1. The petitioner is aggrieved by an order dated 03.12.2022 rejecting an application under Section 239 of the Cr. P. C. passed by the learned A.C.J.M., Sealdah, South 24 Parganas.
2. The principal argument advanced by the learned counsel for the petitioner that the learned Magistrate has not discussed the evidence, police report and the statements of the witnesses collected by the I. O. The Magistrate was of the opinion that it would be premature at this stage, given the materials on record to discharge the petitioner.
3. The second ground urged by the learned counsel for the petitioner is that the consideration was effected based on a decision of the Karnataka High Court of the year 1977.
4. While it is true that the Magistrate could have more happily worded his order, it would be grossly inappropriate to expect the Magistrate to any detailed discussion or analyse the entire charge sheet, statement of the witnesses and any evidence that is likely to come from prosecution.
5. The test under Section 239 of the Cr. P. C. requires the Court to ascertain as to whether based on the materials available on record,

if the matter is taken to trial, the charge against the accused can be established. The exercise is prima facie.

6. Having regard to several decisions of the Supreme Court on the subject, this Court is of the view that the Magistrate has not committed any serious error in rejecting the application of the petitioner under Section 239 of the Cr. P. C.
7. This Court has considered the material on record. The petitioner has clearly not made out a case for discharge.
8. In view of the above, CRR 4102 of 2023 fails and is hereby dismissed.
9. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)