

11-11-2024
Court No.3
Sl. No. 57
T.Ojha

**In The High Court At Calcutta
Circuit Bench at Jalpaiguri**

CRR/296/2024

**TAPAS KARMAKAR
VS
THE STATE OF WEST BENGAL AND ANR.**

*Mr. Kunaljeet Bhattacharya, Adv.
Mr. Salok Sah, Adv.
Ms. Anwasha Chakraborty, Adv.
...for the Petitioner*

*Mr. Nilay Chakraborty, Adv.
Mr. Tapan Bhattacharjee, Adv.
...for the State*

The instant application is filed against the impugned Order dated 10.6.2024 passed ;by the Learned Judicial Magistrate, 3rd Court at Jalpaiguri in connection with G.R. Case No. 4332 of 2016 arising out of Kotwali Police Station Case No. 624 of 2016 dated 5.11.2016 under Sections 279 and 304(A) of the Indian Penal Code, 1860.

The petitioner is the father of a boy who met with unfortunate death in road traffic accident while travelling as a pillion rider of a motor-bike being driven by the discharged accused.

The contention of the petitioner, being de facto complainant and father of the victim boy, is that while discharging the accused, the Trial Court did not consider the materials on record which indicate that the accused was driving the motorcycle in a rash and negligent manner.

The Learned Counsel appearing for the State produced C.D. and argued that the motorcycle met with unfortunate accident; victim was a pillion rider and expired as a result of the accident whereas the accused was driving the motorcycle. The accused was also the driver of the motorcycle. No eye witness testified that the accused has oblique motive or driving the motorcycle in a rash and negligent manner. In such circumstances, the accused was rightly discharged.

On hearing rival submissions and on perusal of the C.D. it came to the notice that some of the statements of witnesses indicate that the accused drove the motorcycle in a rash and negligent manner which was not noticed by the Learned Trial Court.

The matter is remanded to the Trial Court with a direction to reconsider the issue of

discharge of the accused in the context of available materials in C.D., without being influenced by this order.

A copy of this order may be communicated to the Learned Trial Court.

(SUGATO MAJUMDAR, J.)