

CRR 1653 of 2022

Susama Mondal

Vs.

State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee
Mr. Kiron Sk.
Mrs. Monalisha Sinha ...for the petitioner.

Mrs. Anasuya Sinha
Mrs. Subhasree Patel ... for the State.

Report submitted by the State dated 16.04.2025 is taken on record.

This is an application wherein petitioner has challenged the order dated 14th March, 2022 by which the Court below has discharged accused Achintya Manik and Mita Manik from the instant proceeding and I am informed that the charge has been framed against the principal accused Subhajit, who is not the petitioner herein.

It is submitted on behalf of the petitioner that petitioner lodged a complaint against all the three accused persons which has been reflected in the petition of complaint and after making investigation police has submitted charge sheet against all the three accused persons but learned Court below while considered the prayer for discharge made by the petitioners who are parents of the principle accused, has been pleased to discharge said two accused persons by the impugned order, ignoring the specific allegation made against the present opposite parties that they had instigated the defacto complainant to cause her abortion. Accordingly, she has prayed for setting aside the order impugned

and to pass a direction upon the court below to frame charge against the said two accused persons also.

Learned counsel appearing on behalf of the State placed the case diary and leaves the prayer to the discretion of the Court.

Private opposite parties are not represented.

I have considered the submissions made by both the parties and I have also gone through the materials collected during investigation. On perusal of the materials collected so far, it appears that though there are certain allegations, which may have been prima facie substantiated during investigation against the principle accused Subhojit Manik, but the allegations levelled against present opposite parties does not constitute offence either under section 417 or 323 or 506 of the Indian Penal Code.

Learned Court below while passed the impugned order has also made clear observation that after carefully gone through entire materials in the case diary including statements recorded during investigation under section 161 and 164 Cr.P.C., he did not find any incriminating materials against them under any of the abovementioned sections. Court below further recorded that all the witnesses stated that family members of the principal accused Subhajit misbehaved with the family members of victim girl and the witness stated nothing else against the present petitioners.

The Supreme Court in **Union of India Vs- Prafulla Kumar Samal**, reported in **(1979) 3 SCC 4** has held that at the stage of framing of charge the trial court has the power to sift and weigh evidence, though for a limited purpose and finding out whether or not a prima facie case against the accused has been made out.

Charge would be framed not on mere suspicion but on the facts giving rise to grave suspicion of the accused having committed the offence. The materials available so far in record does not give rise to grave suspicion against the opposite parties to frame charge against them. The order framing a charge affects a person's liberty substantially and therefore it cannot be said that at the time of framing charge court is to act mechanically on the basis of charge sheet without applying judicial mind to the consideration whether or not there is any ground for presuming the commission of the offence by the accused.

In such view of the matter, I do not find any reason to interfere with the order impugned invoking this Court's jurisdiction under section 482 of the Code of Criminal procedure.

Accordingly, CRR 1653 of 2022 stands dismissed.

However, Trial Court is directed to expedite the proceeding and to conclude the same preferably within a period of six months from the next date of hearing.

If any prayer is made by the petitioner before the court below under section 311 of the Code of Criminal Procedure, the court below will dispose of such application in accordance with law.

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

(Dr. Ajoy Kumar Mukherjee, J.)