

11.02.2025
rc/ct.no.34
Item No.15

CRR No. 4558 of 2024

In the matter of : Kanchan Palit

.....Petitioner

Mr. Shibaji Kumar Das
Mr. Dipendu Sarkar
Ms. Deblina De

...for the Petitioner

Mr. Avijit Ganguly
Mr. Debarshi Brahma

...for the State

Affidavit of service filed by the petitioner is taken on record.

None appears on behalf of the private opposite party despite service.

The petitioner who is the defacto complainant in connection Sessions Serial No. 656 of 2017 pending before the learned Additional Sessions Judge, Fast Track, 2nd Court, Berhampur, Murshidabad is aggrieved by the order passed by the learned Trial Court on June 06, 2024 whereby the learned Court has kept in abeyance the petition filed by the defacto complainant/ petitioner herein for consideration of the same at the time of delivery of judgment.

Heard learned counsels for the parties.

By the said petition, the petitioner/defacto complainant sought to alter the charge from Section 304 of the Indian Penal Code to Section 302 of the Indian Penal Code on the basis of the post mortem report and examination of PW-3 under Section 164 of the Code of Criminal Procedure. In keeping the application in abeyance, the learned trial Court has held that since examination

of prosecution witnesses as well as accused was completed and the case was fixed for hearing argument, alteration of charge at that stage would mean that the learned trial Court would have to go through the entire case record thoroughly, analyze the prosecution case and evaluate the evidence on record. The reasons assigned by the learned trial Court for keeping the application in abeyance is unknown to law.

In view of the above, the learned trial Court is directed to consider and dispose of the application filed by the petitioner/defacto complainant upon granting reasonable opportunity of hearing to the parties, in accordance with law, before commencement of argument.

The order impugned dated June 06, 2024 is set aside/quashed.

Since the case at its fag end, it is expected that the learned trial Court shall dispose of the application within one month from the next date of hearing fixed before him.

The application being CRR No. 4558 of 2024 is disposed of accordingly.

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

Suvra Ghosh,J)