14.10.2026
Item No.17
Ct. No. 34
nb

CRR 3035 of 2022

Saptami Biswas.
Vs.
The State of West Bengal & Ors.

Mr. Dipanjan Chatterjee,
Mr. Sankar Paul,
Ms. Kumari Shipra Roy,
Mr. Kakan Das
....For the Petitioner.
Mr. Habibur Rahaman,
Ms. Mehabuba Rahaman,,
..... for the O.P. nos.2-3.

1. Affidavit of service filed by the petitioner be taken on record.

2. This revisional application has been filed against the order dated 6.6.2022 passed by the learned Additional Judicial Magistrate, Tehatta, Nadia in Murutia P.S. case No.58 of 2021 dated 26.3.2021 under Section 341/326/34 of the IPC, whereby the prayer made by the present petitioner for further investigation has been turned down.

3. It is submitted by the learned counsel representing the petitioner that in pursuance to a written complaint dated 26.3.2021 lodged by the present petitioner the case was initiated against the FIR named accused persons.

4. The specific allegations made out in her written complaint that as per pre-planned all the accused persons illegally

restrained the husband of the petitioner on the Public Road and the two FIR named accused persons Bappa Mondal and Samar Mandal forcefully pulled down him from the motor cycle by way of grabbing his shirt collar and then the other petitioners jointly attacked upon him and started assaulted him with deadly weapon like Hensua (grasshook),iron rod and wooden stick . Further case made out that Bappa Mondal tried to strangle the husband of the opposite party no.2 and then Basudev Mondal assaulted on neck of the husband of the defacto complainant with sharp Hensua as a result he suffered bleeding injuries .

5. The case made out by the opposite party against the FIR named accused persons and the role attributed by each of the accused persons. On completion of investigation, the charge sheet was filed and it was detected that FIR named two accused persons are being exonerated from the charges. Accordingly, she filed Narazi petition after being served with the notice dated 7.12.2021.

6. Learned Court after hearing the parties in respect of Narazi petition and also the prayer made on behalf Investigating Officer, to discharge those two persons namely, Samar Mondal and Bappa Mondal allowed the prayer of the prosecution and discharged the two persons and rejected the prayer made by the present petitioner.

7. The specific contention made before this Court by the learned counsel that despite having a specific role attributed against

those two persons and despite the husband of the complainant sustaining severe injuries the Investigating Officer initially did not add those two persons as accused because they are the Civic Volunteers.

8. Learned counsel representing the opposite party on the contrary raises vehement objection and submits that after considering the facts and circumstances of the case and after discussing the materials collected in course of investigation, the learned Court refused to entertain the prayer of the petitioner and there is no reason for warranting any interference in this regard.

9. On behalf of the State an objection has been raised so far as the order is concerned and submits that the specific name of those two persons were very much there with the role played by them in the written complaint but in the charge sheet their names were not mentioned and the prayer was made to discharge, which was allowed by the Court and hence support the contention of the petitioner and prayed for setting aside such order .

10. Having heard the learned counsels appearing on behalf of the respective parties, prima facie it is seen that grievance ventilated before this Court against the order dated 6.6.2022 whereby on the prayer made by the prosecution to discharge two persons, who were FIR named accused persons, the learned Court allowed the prayer and discharged them. Subsequently,

the Narazi petition filed by the de facto complainant was not considered.

11. The observation made by the learned Court in the said order that only ground taken in the petition by the de facto complainant that one accused named persons in the FIR was not sent up by the I.O. The learned court perused the charge sheet and materials collected and the statement recorded under Section 161 and found no incriminating material available against those two persons. Learned Court also observed that no intentional gross negligence was found on the part of the I.O. while conducting investigation.

12. This Court after careful considering of the entire facts and circumstances of the case and meticulously considering the Case Diary also is of the opinion that no iota of materials can be found against those two persons either from the statements so recorded in respect of various witnesses including the injured or in the injury report. The discharge certificate is also silent about the name of the assailant. The injury report of Jaganath Biswas reflects that he suffered sharp cut injury and also fifteen stitches had to be given but he did not utter a name of any of the assailant. The Statement made by the various witnesses are completely silent about any overt act of those two persons and even did not make any statement regarding presence of those two persons. In the charge sheet submitted by Court, it was mentioned that no evidence can be established against the two

persons namely, Samar Mondal and Bappa Mondal and prayed for discharge. In fact the written complaint only stated their names who obstructed the husband of the petitioners but did not mention about any overt act but in this revisional application certain new facts have been introduced.

13. It is settled proposition of law that further investigation can be allowed if subsequently certain development took place after investigation, which was brought to the notice of the Court. It is not a case that there was dereliction of duties in discharging the function of the Investigating Officer as primarily appeared from the four corners of the Case Diary. The stand taken by the State before this Court supporting the case of the petitioner cannot be considered at this stage since the order impugned was never challenged by the State. That apart the prayer for discharge was made on behalf of the Investigating Officer on basis of which such order was passed.

14. This revisional application was pending since 2022 and at no point of time on behalf of the State any prayer was made to file affidavit-in-opposition challenging the order impugned.

15. Therefore this Court is of the view that the order impugned do not suffer from any infirmities for which any interference is necessary.

16. However, it is settled proposition of law that in course of trial while taking evidence if the name of the two persons are surfaced the learned Court is empowered to summon those

persons in accordance with law it was found necessary to dig out the truth.

17. Accordingly, this revisional application stands disposed of.

18. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(CHAITALI CHATTERJEE (DAS), J.)