

S.C. 23/2022

Order no. 09  
15.07.2022

The accused is produced from j/c.

Record is placed for passing order in respect of petition dated 11.07.2022 as made by prosecution. In this case one Sudipta Sarkar is facing trial and charge was framed after due consideration of the materials on record.

Learned PP-in-charge has submitted that in the instant case charge should not have been framed u/s 304 IPC but the charge should have been framed for the offence of murder as punishable u/s 302 IPC. Pointing out to the various materials in the CD, learned PP-in-charge has argued that the materials clearly established prima facie that the accused has actually committed murder by pretending to be a fake doctor. The PP-in-charge submitted that for the interest of justice, it will be appropriate to alter the charge and re-frame the same as one u/s 302 IPC instead of 304 IPC.

The learned advocate for the accused on the other hand submitted that the charge u/s 304 IPC was correctly framed although the petitioner is innocent and has been falsely implicated. Learned advocate has contended that there is no ingredient of murder and it will not be proper to frame a charge for the offence punishable u/s 302 IPC. Learned advocate for the defence has prayed for rejection of the petition of the prosecution.

The submission from both the sides has been carefully considered.

The materials in the CD have been perused once again. Accused is alleged to have committed several offences punishable under different section of Indian Penal Code and it appears that he is also behind causing death of human beings giving thoughtful consideration to the submission of the learned PP-in-charge and learned defence counsel, it transpires that there is substances in the argument advanced by learned PP-in-charge. It appears that a charge u/s 302 IPC would be more appropriate in view of the existence of the ingredients of the offence of murder.

Having considered the matter very carefully, this Court is of the opinion that the charge which was framed u/s 304 IPC should have been framed u/s 302 IPC and as such there is merit in the petition. Accordingly, the petition dated 11.07.2022 is allowed.

Hence, it is

**ordered**

that the petition dated 11.07.2022 is allowed and the charge needs to be altered and for that next date is fixed for alteration/re-framing of charge.

Accused to j/c.

To **30.07.2022** for production and re-framing of charge.

Dictated and corrected by

Sd/- S. Jha  
Sessions Judge, Bankura

Sd/- Santanu Jha  
Sessions Judge, Bankura