

GRS 1335/ 2023
Reg No. GRS – 1335/2023
CNR – WBCS 02-204910-2023

Order Dated 01.8.2026

Today is fixed for hearing of the petition filed under Sec.239 CrPC by the accused persons.

Ld.APP is present.

The accused persons are absent by petition.

Ld. Advocate for the accused persons contend that the statement of the witnesses recorded under Sec. 161 CrPC does not corroborate with the allegations in the complaint and that the said witnesses are all interested witnesses and as such their statements should not be relied upon. He contends that no materials have been collected to show that the accused persons had committed the alleged offence. Therefore, he contends that the investigation is perfunctory, biased and incomplete and therefore, prayed for discharging the accused persons.

On the contrary, the Ld. APP raised objection and submitted that at this stage, the materials in the CD shows incriminating materials against the accused person. Hence, prayed for rejection of the discharge petition as filed by the accused person.

Heard both the parties.

Perused the materials on record.

Now the brief fact of the case is that it has been alleged by the complainant that her son was assaulted by the accused persons in the Pool car and was dropped off on the road thereby endangering the safety and security of her son. Accordingly Charge sheet was submitted under Sec 341,323 and 411 of the Indian penal code against the accused persons.

Now on perusal of the statement of the witnesses recorded under Sec 161 Cr.PC, it appears that they have supported the case of the prosecution. The contention of the Ld. Advocate for the accused persons that the statement of the witnesses recorded under Sec 161 CrPC should not be relied upon as the said witnesses are all interested witnesses cannot be accepted at this stage as the said matter needs to be considered during trial upon appreciation of evidence. Further, the contention of the Ld. Advocate for the accused persons that Sec 75 of the Juvenile Justice Act is not attracted against the accused person cannot be accepted at this Stage because the complaint very clearly raises allegations which attract the offence under Sec 75 of the Juvenile Justice Act. Furthermore, the question whether the child on the alleged date of the incident was in custody of the accused persons or not is a matter which needs to be considered during trial. Furthermore, whether non collection of documents have weakened the prosecution case and whether non recording of statements of any persons would lead to acquittal is a question that cannot be determined at this stage of framing of Charge.

Therefore, considering the discussion made above and on perusal of the statement recorded under Sec 161 CrPC, the Injury report of the victim, this Court finds that the materials collected during investigation disclose sufficient grounds for proceeding against the accused person.

Hence, the petition filed under Sec.279 CrPC is hereby rejected.

To **17.09.2026** for framing of charge.

Dictated and corrected
by me :

Judicial Magistrate, 4th Court, Calcutta

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