

17.03.2023

Sl. No. 13

Srimanta

Ct.No. 42

CRR/2728/2022

In the matter of : **Radhakanta Das**

Mr. Rajdeep Mazumder,
Mr. Moyukh Mukherjee,
Mr. Pritam Ray

...for the petitioner.

Petitioner's application under Section 227 of the Code of Criminal Procedure was rejected by the learned Sessions Judge, Haldia, Purba Medinipore in Sessions Case No. 141/2021 corresponding to GR Case No. 463/2021 where the petitioner pleaded that charge cannot be framed against him under Section 302 of the Indian Penal Code. However, charge may be framed against the petitioner under Section 304 of the Indian Penal Code. Learned Magistrate did not accept such submission and framed charge against the accused persons under Section 302 of the Indian Penal Code along with other cognate penal provisions.

It is pointed out by Mr. Rajdeep Majumder, learned Advocate for the petitioner that the victim got injured in a clash between two groups belonging to rival political parties. After receiving injury he was admitted to hospital. After 13 days of the incident he died. Post mortem reports suggest that his death was caused due to surgical wound. Therefore, there is no material in the charge-sheet or in the documents supplied to the petitioner under Section 207 of the Code of Criminal Procedure that the assailants had both intentional knowledge to cause such bodily injury to the victim as would in normal circumstance cause death of the victim. In the

absence of such ingredients no charge can be framed under Section 302 of the Indian Penal Code.

The instant revision is admitted. Petitioner is directed to serve notice upon the private opposite party no. 2 under registered speed post with acknowledgement due and file affidavit-of-service within three weeks from the date of this order. The State of West Bengal be serve through the learned Public Prosecutor, High Court, Calcutta. The learned Public Prosecutor is requested to produce the case diary on the date of final hearing of the instant revision.

In the meantime, further proceeding in connection with Sessions Case No. 141/2021 pending before the learned Additional Sessions Judge, Haldia, Purba Medinipore be stayed for a period of six weeks.

Matter to appear after four weeks.

(Bibek Chaudhuri, J.)