

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

CRR 812 of 2023
Sital Chandra Kaibartya
Vs.
The State of West Bengal & Anr.

Before: The Hon'ble Justice Apurba Sinha Ray

For the Petitioner	: Mrs. Pampa Dey (Dhabal), Adv. Ms. Sangita Banerjee, Adv.
For the O.P. No. 2	: Mr. Soumik Ganguly, Adv. Mr. Pawan Kr. Gupta, Adv. Ms. Sofia Nesar, Adv. Mr. Santanu Sett, Adv. Ms. Chandana Chakraborty, Adv.
For the State	: Mr. Prasun Kr. Datta, Adv. Mr. Nirupam Dhali, Adv.
CAV On	: 17.06.2025
Judgment On	: 20.06.2025

Apurba Sinha Ray, J. :-

1. The learned counsel for the petitioner Mrs. Dey (Dhabal) has submitted that a written complaint was lodged by the petitioner and others including the father of the private respondent on 12.09.2016 to the effect that on 11.09.2016 at about 15:50 Hrs. while three college going students namely, Manasi Kaibartya @ Mampa, Prapti Banerjee @ Alo and Sanchita Roy were returning to their respective homes after finishing their tuition at

Netaji More, Kotulpur by khatra-Jamalpur bound bus, the victim Manasi Kaibartya suffered a burn injury due to hurling/pouring of liquid acid at Gelia bus stoppage. The injured was taken to Joypur BPHC and she was released after primary treatment. Subsequently, the present petitioner came to know that it was the private respondent namely, Prapti Banerjee who poured such acidic liquid upon the person of his daughter and over this he again wrote a complaint to the Officer-in-Charge Joypur Police Station which was received on 13.09.2016 with the remarks that such written document "refers to Joypur PS Case no. 107 of 2016 dated 12.09.2016 under section 326A/120B of Indian Penal Code."

2. It is further contended that the daughter of the petitioner got injured at her right shoulder whereas the private respondent received injury at her right hand and leg. After completion of the investigation chargesheet was filed against the private respondent under section 326A/120B of Indian Penal Code. The learned counsel Mrs. Dey (Dhabal) has also submitted that on 04.01.2023 the Learned Additional Sessions Judge, Bishnupur, Bankura without considering the record of the case along with documents submitted therewith and also without hearing the submission of the prosecution discharged the opposite party no. 2 under section 227 of the Code of Criminal Procedure from the allegation under Section 326A/120B of Indian Penal Code and the accused-private respondent was also discharged from her bail bond.

3. It is categorically submitted that the statements made by several witnesses namely Santu Roy, Sanchita Roy, Sk. Saha Alam, Haru Bag, Arup Pal, Srimanta Dey who were the eye witnesses to the incident clearly implicated the present private respondent namely, Prapti Banerjee but such statements were not taken into consideration by the Learned Additional Sessions Judge who passed the order of discharge under section 227 of Cr.P.C. only on the basis of the statements of the four witnesses. The witness Srimanta Dey's statement that he saw Prapti to take out something from her bag immediately before the incident, was not taken into consideration. Therefore, the Learned Judge has committed grave error in discharging the accused under Section 227 of Cr.P.C. and such order is liable to be set aside.

4. The learned counsel Mr. Gupta, appearing for the private respondent, has categorically stated that the relevant GR case was lodged by the petitioner only to receive the compensation amount for acid attack victims. According to him, the complaint was made by the father of the accused, Prapti Banerjee, along with the present petitioner and others regarding throwing of some unknown liquid substance upon her daughter on 11.09.2016. In the said attack Prapti Banerjee as well as one Manasi Kaibartya were both injured. FIR was made against unknown persons. Both the victims were treated in the same hospital. Before the doctor, Manasi as well as Prapti narrated that such attack was made by unknown person. The conductor, the driver of the bus and also other persons have stated regarding the presence of the said unknown third person. There is not a

single expert or doctor's opinion showing that actually acid attack was done to the victims. In fact, the respondent no. 2 Prapti Banerjee was framed in the case though she was also a victim standing with the same footing of Manasi Kaibartya. The statements of Sanchita Roy, the driver and conductor of the bus clearly revealed that the unknown person wearing red tee-shirt was there at the spot. There is not a single eye witness who saw Prapti Banerjee to commit such offence. The State has not preferred any application against such order of discharge. The petitioner has no locus to file the present revisional application. The continuation of trial only on the basis of suspicion without any cogent evidence would be futile and will involve wastage of valuable time of the court. The petitioner intends to continue with the instant claim since his daughter's claim for compensation as acid attack victim is totally dependent upon the outcome of the case. The discharge order passed by the Learned Trial Judge was in accordance with law and as such the instant revisional application is liable be dismissed.

5. The learned counsel for the State has submitted that there were 17 witnesses as per chargesheet. However, he has fairly submitted that no chemical examiner's report has been sought for, nor there is any material to show that the alleged liquid was acidic or acid.

6. I have gone through the materials on record including the impugned order dated 04.01.2023 passed by the Learned Additional Sessions Judge, Bishnupur, Bankura. The observation of the Learned Additional Sessions Judge may be quoted hereunder:-

“I have perused the CD carefully. It is to be mentioned herein that there is no chemical report to establish that the injured persons sustained Acid injuries on their person. Moreover, I have carefully perused the statement of injured Manasi Kaibarty, Sanchita Roy, Manik Pal and Amitabha Khan. If I minutely peruse the said statements u/s. 161 Cr.P.C it will be evident that there is no direct evidence against accused Prapti Banerjee. Moreover, from the statement of Manik Pal and Amitabha Khan, it is apparent that they have noticed a person wearing red shirt to flee away immediately after the incident. The said statement indicates otherwise. The entire statements of the said witnesses does not entangle the accused in any way and therefore considering the whole materials available on the CD, I think no incriminating materials transpired for framing of charge against the accused Prapti Banerjee and thereby she deserves discharge from the allegation u/s. 326A/ 120B of IPC.

Hence, it is

ORDERED

that the accused Prapti Banerjee is discharged u/s. 227 for the allegation u/s 326A/120B of IPC and also discharged from bail bond. Surety be discharged accordingly.”

7. From the above observation of the Learned Additional Sessions Judge it appears that he has taken into consideration the statement of the injured Manasi Kaibartya, Sanchita Roy, Manik Pal and Amitabh Khan. From such statements, according to Learned Judge, there was a person in the said bus wearing red tee-shirt and such person fled away immediately after the incident. The entire statements of the said witnesses did not state anything about the private respondent and as such he recorded an order of discharge in favour of the private respondent. Such observation shows that the

Learned Judge did not consider the statements of other witnesses recorded under section 161 of Cr.P.C.

8. Now, if we consider the statements of the witness Sk. Saha Alam son of Sk. Alauddin, we shall find that he stated before the police that after reaching Gelia bus stand he noticed that two girls and one male person were standing side by side near the front gate of the bus and just behind them another girl was standing. When the bus stopped at the Gelia bus stand he suddenly heard the screaming of one girl out of two as aforesaid and the said girl got down from the said bus. The girl who was standing behind them also got down after sometimes. Subsequently, he came to know that the girl who screamed sustained burn injury on her back and the girl who was standing behind the first two girls also sustained injury. The said witness did not say that the private respondent Prapti poured the acid. The statement of the witness Haru Bag and Santu Roy recorded under Section 161 of Cr.P.C. do not show that they stated anything against the private respondent. The statement of the witness Arup Pal who was also travelling in the same bus did not implicate the private respondent Prapti Banerjee. So far as the statement of the witness Srimanta Dey @ Laltu is concerned it appears that he has categorically stated that he was travelling in the concerned bus and when the bus reached at Gelia bus stand he found that some young girls were standing near the front gate. He also found that the girl who was standing behind the other girls took out something from her bag. Suddenly the witness heard the screaming of a girl and subsequently he came to know that the girls received burn injuries from some liquid. He

has also stated that he saw something in the hand of private respondent which she took out from her bag at the relevant point of time.

9. Such statement was recorded on 15.02.2017 this witness also did not say that he saw Prapti Banerjee to pour anything on the body of the victim. A person may have many things in his/her hand but to implicate someone in acid attack case there must be some direct evidence that the witness saw the attacker to pour acid on the person of the victim. The statement of the witness Srimanta Dey does not qualify such test.

10. I have also taken into consideration the injury report. Injuries sustained by the victim and also the private respondent are simple in nature. There is no observation of the medical officer that such injuries were caused due to acid or any other corrosive element. However, no chemical examiner's report was obtained by the I.O. on the basis of marks of the liquid or presence of the liquid on the wearing apparels.

11. However, from the contents of the chargesheet no. 25/17 dated 19.03.2017, it appears that the Investigating Officer of the case, namely, Shubhashis Halder of Joypur Police Station, had no concrete ground to arrive at the conclusion that the victim has truly been attacked with acid. This is because the said I.O. has not recorded anywhere in the concerned case diary, with reference to First Information No. 107/16, to have sent the clothes of the victim which she wore at the time of the occurrence to any chemical expert for laboratory analysis of the impugned liquid material

which caused her the burn injuries. The portion on the result of laboratory analysis as printed on the second page of the chargesheet remains empty. The I.O. bases his assertion that the instrument of the attack is an acid solely on the observations of the attending doctors who medically examined the person of the victim and on the conjecture made by the chemistry laboratory's in-charge at the college in which the victim studies. It is to be noted that the attending doctors in the medical reports submitted by them, clearly write that further prognosis depends on specialist's opinion, and also that the said chemistry laboratory's in-charge, namely, Swapan Kr. Ghosh had only heard of the nature of the burn injuries and provided a mere opinion. Hence, the proposition that the chemical used for the attack is an acid holds no water due to lack of a formal expert opinion.

12. Therefore, after considering all materials on record, I do not find anything to interfere with the order passed by the Learned Additional Sessions Judge. The revisional application, is, thus, dismissed on contest but without any costs. The case diary be returned.

13. CRR 812 of 2023 is accordingly disposed of.

14. Urgent photostat certified copies of this Judgment, if applied for, be supplied to the parties on compliance of all necessary formalities.

(APURBA SINHA RAY, J.)