

Criminal Revision
PRESENT: The Hon'ble Justice Ashim Kumar Roy

Judgment On: 15-02-2010.

C.R.R. No. 4646 of 2009
Alim Akhtar
versus
State & Anr.

Point:

QUASHING: Mistaken identification-Whether a question of fact and be decided in exercise of revisional jurisdiction- Code of Criminal Procedure, 1973, S. 482

Fact: The petitioner by filing the instant application has sought for quashing of charge-sheet submitted by police under Section 401A of Kolkata Municipal Corporation Act on the ground that the present petitioner was not the same person who was charge-sheeted.

Held: The prayer for quashing has been made on the sole ground of mistaken identification. Whether the petitioner is the same person against whom police has submitted charge-sheet or not is a pure question of fact and in exercise of revisional jurisdiction, it is not for this Court to decide the same and is a matter of evidence.

Paragraph – 2

For Petitioner : Mr. Dinendra Nath Chatterjee

For O.P. No. 2 : Mr. Raghunath Chakraborty
(K.M.C.) Ms. Sreyashee Biswas

For State : Mr. Abhijit Adhya

The Court:

In connection with Beniapukur P.S. Case No. 104 dated 5th April, 2001, police submitted charge-sheet under Section 401A of Kolkata Municipal Corporation Act against one Md. Alim Akhtar son of Badruzzaman, 20 Linton Street, Kolkata – 700 014. It was urged before this Court that the present petitioner Alim Akhtar son of Badruzzaman residing at 36, Linton Street, Kolkata – 700 014 was not the same person who was charge-sheeted. Accordingly, it was prayed that the case against the petitioner be quashed.

2. Having considered the submission made on behalf of the petitioner I find that the prayer for quashing has been made on the sole ground of mistaken identification. Whether the petitioner is the same person against whom police has submitted charge-sheet or not is a pure question of fact and in exercise of revisional jurisdiction, it is not for this Court to decide the same and is a matter of evidence.

In such circumstances, I do not find any merit in this criminal revision and this application stands dismissed.

However, this order will not preclude the petitioner to take the same plea and to prove in the trial court that he is not the same person against whom charge-sheet has been submitted.

Criminal Section is directed to deliver urgent Photostat certified copy of this Judgement to the parties, if applied for, as early as possible.

(Ashim Kumar Roy, J.)