

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Jay Sengupta

CRR 3291 of 2024

XXX

Vs.

The State of West Bengal & Ors.

For the petitioner : Mr. Tarun Jyoti Tewari,
Ms. Kausiki Bose,
Mr. Dipankar Bhakta.
.....Advocates

For the State : Mr. Anand Keshari,
Ms. Suchismita Dutta.
.....Advocates

**For the Opposite Party
nos. 2 to 4** : Mr. Sabir Ahmed,
Mr. Shraman Sarkar,
Mr. Dhiman Banerjee.
.....Advocates

Heard lastly on : 31.01.2026

Judgment on : 12.03.2026

Jay Sengupta, J:

1. This is a revisional application, inter alia, praying for further investigation or de novo investigation into Hariharpara P.S. Case No. 36/2024 dated 27.01.2024 under Sections 363/302/34 of the IPC and 4 and 6 of the POCSO Act corresponding to C Special Case No. 31 of 2024 pending before the Learned Special Court, POCSO Act, Berhampore, Murshidabad.

2. Learned counsel appearing on behalf of the petitioner has submitted as follows. The 13-year-old daughter of the petitioner went missing on 22.01.2024 at around 8 PM. Despite all efforts to find her, she could not be located, compelling her to lodge a complaint on 24.01.2024, upon which Hariharpara Police Station Case No. 35/2024 was registered. Shockingly, on 27.01.2024 at around 1 PM, her daughter's dead body was discovered in a field in a decomposed condition with severe injuries, and her mobile phone was missing. A second FIR, being Hariharpara P.S. Case No. 36/2024, was then registered for offences under Sections 363/302/34 of the IPC. After her body was sent for postmortem to Murshidabad Medical College & Hospital, it was found that several injuries were not mentioned in the report, prompting her to approach this Court through WPA 3364 of 2024. This Court was pleased to direct a fresh postmortem at SSKM Hospital, Kolkata, and further directed the police to add the relevant POCSO sections, which the police had failed to include despite clear evidence of sexual assault. Subsequently after the order of this High Court it was added. Even after the SSKM report, the investigation remained superficial, and though a chargesheet (C.S. No. 173/2024 dated 05.04.2024) was filed, it was evidently the product of a

negligent and biased inquiry. Throughout the investigation, the petitioner and her family have faced continuous pressure from the accused persons and their associates. On 18.07.2024, the petitioner had to lodge a complaint against the Learned Public Prosecutor, who attempted to coerce her into withdrawing the case with threats and monetary inducements. The police have failed to recover her daughter's mobile phone, did not identify the place of occurrence, ignored crucial call records and tower locations, and shielded politically influential persons, including the father of the main accused and the local MLA whom she had specifically named in her statement under Section 164 Cr.P.C. Given the political influence, intimidation, and the deliberate lapses in investigation, it has become clear to the petitioner that a fair and impartial probe cannot be expected from the local police. The chargesheet is incomplete and compromised, and even her plea for reinvestigation was rejected by the Learned Trial Court on the ground that such relief can only be sought before this Court. Therefore, the petitioner was constrained to seek the intervention of this Court to set aside the defective chargesheet and direct a fresh, independent investigation by the CBI so that justice for her daughter may finally be secured. The daughter of the petitioner had a mobile phone with her having number 8609198136 and the same was not recovered by the Police authority. There are several lacunas in the investigation. The same are being pointed as follows. a) Mobile phone of the victim has not been recovered; b) In chargesheet at Item No.21 police has mentioned about 2 phone numbers but owners of those has not been made an -accused/witness; c) Place of occurrence is still not identified; d) The main

accused was shown as juvenile without any proper medical document and/or ossification test; e) The father of the main accused is in custody, but he was not arrested by the police initially inspite of knowing everything, the petitioner went to the office of the Superintendent of Police and as per her information he was arrested but strangely police did not take him in police custody for interrogation. From this the intention and action of the police is clear; f) Father of the main accused i.e., Rintu Khan @Kalu is booth president of TMC and close aide of the local MLA. He is very close to Ex Zila Sabhadhipati who is present Purta Karmadhakya of the District and for his political connection, Police is trying to save that accused; g) Police has phone numbers of the victim, the accused persons, local political leaders and easily they could get the real picture by using tower dumping technology but the same was not used and strangely CDR were not scrutinized properly; h) It is the specific information of the petitioner that phone number of her daughter was switched off around 8.15PM, the police could easily find out the tower location but they did not; i) In her statement recorded under section 164 Cr.P.C she had specifically named a few persons including local MLA but no step was taken against them and they have not been made accused and/or witness even and it shows that the whole investigation is fully compromised; j) The police authority, the Public Prosecutor and other persons are creating pressure on the petitioner so that the case can be compromised. They are creating pressure on her Learned Lawyer who is representing her in the trial court; k) The purpose of the investigation is to instill confidence amongst the people but here the sole purpose of the investigation is to compromise the

investigation and save the accused. The accused are politically connected and works as voting machinery for the TMC at their locality. Hence the police is not taking any step; 1) The Local MLA should have been arrested after her statement recorded u/s 164 Cr.P.C but police did not question him and did not bother to see his call details, tower location etc. WPA (P) 130 of 2022 the Court on its own motion in regarding: The brutal incident of Bogtui Village, Rampurhat, Birbhum on 25.03.2022. In this judgment Hon'ble High Court at Calcutta was pleased to discuss about several cases including Rubabbuddin Sheikh vs State of Gujarat & Others reported in AIR 2010 SC 3175, where Hon'ble Supreme Court of India clearly held there that even after filling, chargesheet the Court can direct to handover investigation to the CBI. In WPA (P) 157 of 2022 (Popularly known as Hanskhali Rape Case) this Hon'ble High Court was pleased to transfer the investigation to CBI after discussing several cases. Son of one influential political of ruling party was involved there. [(2021) 15 SCC 777]. It clearly speaks about the circumstances where investigation can be given to CBI even after filling chargesheet by local police. It is respectfully submitted, on behalf of the petitioner, that the investigation into the horrific death of her 13-year-old daughter has been marred by glaring lapses, omissions, and a disturbing pattern of bias that has completely eroded the petitioner's faith in the local police. The victim's mobile phone an essential piece of evidence was never recovered; phone numbers cited in the chargesheet were neither examined nor their owners made witnesses; and the very place of occurrence remains unidentified. The main accused was casually shown as a juvenile without any medical basis, while

his father, a politically influential figure closely connected with ruling party leaders, was initially spared arrest and later not taken into police custody for interrogation, indicating clear protection. Despite being in possession of all relevant phone numbers, the police did not conduct tower-dump analysis, did not properly examine CDRs, and did not trace the victim's last known location, even though her phone was switched off shortly after she went missing. Persons specifically named by the petitioner in her Section 164 Cr.P.C. statement including the local MLA-were neither questioned nor arrayed as accused or witnesses. Instead, the petitioner and even her learned counsel have been subjected to persistent pressure aimed at compelling a compromise. The cumulative conduct of the police reveals an investigation that has failed the victim and her grieving mother at every stage. In these circumstances, it is humbly urged that only a Court-monitored CBI investigation can bring out the truth that the deceased child can no longer narrate, and ensure that justice is neither delayed nor denied.

3. Learned counsel appearing on behalf of the State has submitted as follows. The instant case was initially started as Hariharpara Police Station Case No. 36 of 2024 dated 27.01.2024 under section 363/302/34 of the Indian Penal Code and thereafter Charge-Sheet was submitted under section 363/302/34 of the Indian Penal Code and section 4/6 of the Protection of Children against Sexual Offences Act, 2012. The petitioner/ defacto complainant lodged the 1st written complaint being Hariharpara Police Station Case no. 35 of 2024 dated 24.01.2024 under sections 363/365 of Indian Penal Code against Roni Khan (Opposite party no. 2). It appears from

the Case Diary that the investigating agency recorded the statements of the relatives under sections 161 of the Code of Criminal Procedure, 1983. [Page-10, Page-13, Page-37, Page-39, Page-65]. Statements of the mother of the Victim Girl (Y) the father and the brother of the victim girl were all recorded under section 164 of the Code. Statement of the aunt of the victim girl was also recorded under section 164 of the Code. The first Post Mortem of the victim Girl took place on 28.01.2024 at around 1.40 pm and the doctor found 5 wounds all over the body of the victim. The opinion of the Post Mortem Doctor was that death was due to effects of strangulation by ligature as noted above-antemortem and homicidal in nature. It appears from the materials placed on record that the petitioner preferred an application for Writ before this Court and same was numbered as WPA 3364 OF 2024. The said application being WPA 3364 of 2024 was heard by this Court at length and by order dated February 9, 2024, His Lordship directed the investigative agency to conduct a 2nd post-mortem examination after exhumation of the victim's dead body. It transpires from the case diary that as per the direction passed by this Court in WPA 3364 of 2024, the second post mortem was conducted upon the victim girl on 17.02.2024 and the same was video graphed by the Investigating Officer, Tanmoy Bhakta, Sub-Inspector of Police. The opinion of the doctor in the second post mortem report was that death was due to the effects antemortem strangulation, homicidal in nature. On 4th April 2024, Superintendent of Police, Murshidabad PD send a mail to the Inspector-in-Charge, Hariharpara Police Station and directed the investigating officer to submit Charge Sheet under sections

376(3)/302/363/34 of the Indian Penal Code and 4/6 of Protection of Children From Sexual Offences Act against the main accused Roni Khan and Charge Sheet under section 302/363/34 of the Indian Penal Code against Rashida and Rintu Khan with a proviso to submit Supplementary Charge Sheet on receipt of the FSL report and arrest of the absconding persons. The Writ Application preferred by the petitioner/ defacto complainant before this Court being WPA 3364 of 2024 was finally disposed of by order dated 07.03.2024. It is pertinent to mention herein that before disposing of the same, the Court directed that "Further investigation to be held under the supervision of Superintendent of Police, Murshidabad in order to conclude the investigation as expeditiously as possible and in accordance with law." It appears from the case diary that after investigation, the Investigating agency submitted Charge-Sheet in connection to the instant case vide Charge Sheet no. 173 of 2023 dated 05.04.2024 for the commission of offence punishable under section 363/302/34 of the Indian Penal Code, 1860 against Opposite Party no. 4 i.e., Rashida Khan and Opposite party no. 3 Rintu Khan alias Kalu. The Investigating Agency submitted Charge Sheet on the same date against Opposite party no. 2 i.e., Rintu Khan for the offence punishable under sections 363/302/34 of the Indian Penal Code, 1860 in addition to section 4/6 of Protection of Children from Sexual Offences Act. It is apposite to mention herein that the Investigating Officer of this instant case and 39 Charge Sheeted witnesses are proposed to be examined with a prayer to submit a Supplementary Charge Sheet after receiving the Chemical Examination Report from FSL, Kolkata and authenticated copy of CDR in

this case. It appears that the Investigating Officer had made a prayer for authenticated copies of CDR and CAF before the Nodal Officer, along with the certificates under section 65B of Evidence Act dated 1.1.2024 to 27.01.2024. The investigating agency made a seizure list dated 26.04.2024 which contained, authenticated copy of SDR, CDR and CAF 7872420120, authenticated copy of CAF 7479037872 and 9609270831 and certified copy of 860919835. It appears from the Supplementary Case Diary No.1 that the investigating agency collected the Customer Application Form of Accused/opposite party no. 2 i.e., Roni Khan from the office of Nodal Office, Reliance, JIO and it transpires that his phone no, are 78724220120, 9609270831 and 7479037872. As per the records of this instant case, the Nodal Officer certified about the number being 8609198135 (mother of the victim girl) and the call details records available, the date on which the victim girl had gone missing, she was contacted by the accused Roni Khan seven (7) times at a row and the last call as per the CDR was at 8.15 p.m. It appears that investigating agency submitted the Supplementary Charge Sheet no. 1 being Charge Sheet no. 447 of 2024 dated 31.07.2024 for the commission of offence punishable under section 363/302/34 of the Indian Penal Code, 1860 against Opposite Party no. 4 i.e., Rashida Khan and Opposite party no. 3 Rintu Khan alias Kalu. The Investigating Agency submitted Charge Sheet on the same date against Opposite party no. 2 i.e., Rintu Khan for the offence punishable under sections 363/302/34 of the Indian Penal Code, 1860 in addition to section 4/6 of Protection of Children from Sexual Offences Act. It is opposite to mention herein that the Investigating Officer of

this instant case and 45 Charge Sheeted witnesses are proposed to be examined with a prayer to submit a Supplementary Charge Sheet after receiving the Chemical Examination Report from FSL. It appears from the Supplementary Case Diary No. 2 that the Investigating Officer of the concerned Police Station prayed before the Director of State Forensic Science Laboratory, Government of West Bengal on 07.08.2024 for providing the Chemical Examination Report in connection to the instant case. That on 09.08.2024, the State Forensic Science Laboratory sent the chemical report in connection to this instant case. Investigating agency submitted the Supplementary chargesheet no. 1 being chargesheet no. 499 of 2024 dated 30.08.2024 for the commission of offence punishable under section 363/302/34 of the Indian Penal Code, 1860 against Opposite Party no. 4 i.e., Rashida Khan and Opposite party no. 3 Rintu Khan alias Kalu. The Investigating Agency submitted Charge Sheet on the same date against Opposite party no. 2 i.e., Rintu Khan for the offence punishable under sections 363/302/34 of the Indian Penal Code, 1860 in addition to section 4/6 of Protection of Children from Sexual Offences Act. It is apposite to mention herein that the Investigating Officer of this instant case and 46 chargesheeted witnesses are proposed to be examined with a prayer to submit another Supplementary Charge Sheet after receiving the rest of the Chemical Examination Report from the SFSL. It appears from the order dated 26.04.2024, for the physical production of accused Roni Khan on 06.05.2024, but due to some technical issues, the accused opposite parties was produced physically before the Special Judge (POCSO) Court,

Berhampore, Murshidabad in C. Special 31 of 2024 on 15.06.2024. Mental Assessment of CCL Roni Khan on 15.04.2024. It is pertinent to mention herein that out of 45 chargesheeted witnesses only two witnesses have been examined and the next date is fixed on 25.11.2025 for evidence. On 18.07.2024, the defacto complainant lodged a complaint before the District Magistrate, Berhampore, and Murshidabad against the Learned Public Prosecutor of Berhampore Court, alleging that he had requested the defacto complainant to withdraw the case and offered her money. He had also threatened her. In the said complaint, the defacto complainant alleged that the accused persons knew that panel of Public Prosecutors are arranged in such a manner that might facilitate the case.

4. Learned counsel representing the opposite party nos. 2, 3 and 4 has submitted as follows. The right of further investigation of complaint flows from Section 173(8) of the Code of Criminal Procedure, 1973. The essential ingredients of this Section are to find the truth and do substantial justice. From perusal of the documents pertaining to the present case it is found that statement of the witnesses were recorded by the Judicial Magistrate under Section 164 of the Code of Criminal Procedure, were recorded on 04.03.2024. Chargesheet has been filed in the present case on 05.04.2024. From perusal of the chargesheet it is reflected that the investigating agency at the time of filing of the chargesheet has duly considered the statements made under Section 164 of the Code. After considering the statements, the investigating authority has filed the chargesheet. On 16.05.2024, Learned Trial Court was pleased to take cognisance of the chargesheet. It is further submitted that

aggrieved by the investigation, the petitioner has filed a writ application under Article 226 of the Constitution of India being WPA 3364 of 2024. The said writ application was heard and disposed by this Court on 07.03.2024. The Court has observed that the post mortem report as done pursuant to order passed by the Court was in consonance with the inquest report. It was further recorded that pursuant to direction of the Court the Investigating Officer has added Sections 4 and 6 of the POCSO Act to the array of charges. These recordings unambiguously show that the Court was satisfied with the investigating. This Court in the said order has further directed as follows: - "However, the Investigating Officer shall continue further investigation of the case under the supervision of the Superintendent of Police, Murshidabad Police District and conclude the investigation as expeditiously as possible and in accordance with law." Therefore, it is submitted that the investigation in connection with the present case has taken place as per direction of this Court under the supervision of Superintendent of Police, Murshidabad District and accordingly chargesheet has been filed. On 12.07.2024, the petitioner has appeared and filed application for re-investigation with sole intention to delay the proceeding. It is settled principle of law that Trial Court has no jurisdiction to direct any prayer for re-investigation as the said jurisdiction vested only High Courts and Supreme Court. In compliance of the solemn order of the High Court the learned Trial Court in CRM(DB) 1582/2024 for expeditious hearing of Trial, the learned Court framed charge against the accused persons on 16.07.2024 and date was fixed for evidence where the petitioner remained silent. The opposite parties no. 2 to 4 being

accused persons, in the present case are languishing in custody. Chargesheet in connection with the present case has been filed in the present on 05.04.2024. Several years have passed after filing of chargesheet. The opposite parties no. 2 to 4 are still behind the bar without Trial. The petitioner in his application has not made out any new document and/or evidence which warrants an order of further investigation. Mere perusal of evidence collected during examination already on record will create a never ending loop of perusing the same documents again and again unless the petitioner get his targeted persons behind the bars. The said loop will further violate the rights of present accused persons to obtain speedy trial. The petitioner being dissatisfied with the mode and manner of investigation has previously filed an application under Article 226 of the Constitution of India. The same has resulted in direction of a second post mortem report and addition of certain grievous penal sections. Section 173(8) provides for further investigation during trial. It is settled principle of law that fishing and roving enquiry cannot be permitted under the guise of further investigation. Reliance is placed on K. Vadivel v. K. Shanthi and Others, reported in 2024 SCC Online SC 2463. Therefore, the main grievance of the petitioner can be redressed by invoking Section 319 of the Code of Criminal Procedure at appropriate stage, but the same in no way warrants further investigation as further investigation will be an abuse of process of law and will be in violation of the fundamental rights of the opposite parties guaranteed under the Article 21 of the Constitution of India.

5. I heard the learned counsels for the parties, perused the case dairy, the applications, the affidavits and the written notes of submissions.

6. This is a gruesome case of kidnapping, rape and murder of a minor girl. The 13 year old daughter of the petitioner went missing on 22.01.2024 at about 8.00 p.m.. A complaint was filed on 24.01.2024 as she could not be found in respect of search. Accordingly, Hariharpara Police Station Case No. 35/2024 was registered. On 27.01.2024, at about 1.00 p.m. the minor girl's dead body was discovered in a field in a decomposed condition with severe injuries, and her mobile phone was missing. A comprehensive FIR, being Hariharpara P.S. Case No. 36/2024, was then registered for offences under Sections 363/302/34 of the IPC. Her body was sent for postmortem to Murshidabad Medical College & Hospital, it was found that several injuries were not mentioned in the report, the petitioner was constrained to approach this Court through WPA 3364 of 2024. This Court was pleased to direct a fresh postmortem at SSKM Hospital, Kolkata, and further directed the police to add the relevant POCSO sections, which the police had failed to include despite clear evidence of sexual assault.

7. It has been alleged that the Charge Sheet No. 173 of 2024, dated 05.04.2024 that was filed, was evidently the product of a negligent and biased inquiry. In the meantime, the petitioner had lodged a complaint against the Learned Public Prosecutor before the Trial Court attempted to coerce the mother of the victim in withdrawing the case with threats and monetary inducements. The police purportedly failed to recover the daughter's mobile phone, did not identify the place of occurrence, ignored

crucial call records and tower locations, and shielded politically influential persons, including the father of the main accused and the local MLA whom she had specifically named in her statement before the Learned Magistrate. It has been further alleged that considering the political influence, indicative and deliberate lapses, it is clear that the petitioner would not get a fair and impartial probe from the local police. The police mentioned about two phone numbers, but apparently did not specify to whom these belonged. The prime accused was allegedly shown as juvenile without proper documents. The police allegedly hesitated to arrest the father of the main accused as he was a post holder of the local political party and close aide of the local MLA. Only a CDR analysis was done even not properly, but the help of tower dumping technology was not taken.

8. It appears that by an order dated 07.03.2024 passed by directing that the Investigating Officer would continue the investigation, but under the supervision of the Superintendent of Police. Charges were framed thereafter.

9. It is the contention of the added Opposite Parties that this is only a ploy to keep the accused in custody for an indefinite period. There could be no further investigation or re-investigation directed after commencement of the trial by an order of framing a charge sheet.

10. The State, on the other hand, has contended that it had done its duty in conducting the investigation in the best manner possible. Tower dumping technology does not always give the exact picture of how close an accused

would be to the victim. However, call records are there which implicate the principle accused.

11. In the case of Anant Thanur Karmuse vs State of Maharashtra, (2023) 5 SCC 802, the Hon'ble Apex Court has clarified that if the situation demands further investigation or re-investigation the same can be directed by a Constitutional Court even after the trial begins.

12. Quite often, an addition of an accused during trial is not a substitute for a full fledged further investigation by the police, whether before or after the commencement of trial.

13. The petitioner has alleged that the concerned MLA was present there at the time of post-mortem examination. This is very exceptional indeed. The issue was required to be explored further by the Investigating Agency.

14. The above fact has to be read in the context of the petitioner's claim that the father of the principal accused is a local leader of the ruling political dispensation and of her allegations made against the Public Prosecutor of requesting her to withdraw the case and of threatening her.

15. Merely because tower dumping technology may not be, say, meter or yard specific or, for that matter, absolutely foolproof, it does not mean that the same need not be taken recourse of, once CDR reports are available.

16. Moreover, there is no explanation regarding the lost phone of the victim and about the efforts to retrieve the same.

17. The petitioner has also referred to some other phone numbers mentioned, but not properly worked out.

18. This Court, thus, finds that there were some very serious lacuna in the investigation made thus far and the issues could have been delved into by the Investigating Agency better and deeper in a case of such gruesome nature, that too with allegations of political clout of the family of the accused.

19. Such inchoate and half-hearted investigation goes to the root of the matter and could severely prejudice the cause of justice. It does not at all inspire confidence.

20. Added to this, is the issue of alleged political influence of the accused. In such circumstances, it was incumbent upon the Investigating Agency to have gone all out to find out all the evidence available and not leave out important leads or aspects. After all, justice must not only be done, but must also be seen to be done.

21. In view of the above and in the interest of justice, I direct the formation of a SIT (Special Investigation Team) comprising of 5 members from amongst the State Police to be headed by Dr. Pranav Kumar, a senior IPS Officer for conducting further investigation in the present case in accordance with law and at the earliest and to file further report/s before the Learned Trial Court. The other members of the SIT shall be chosen by Dr. Kumar. The SIT shall report to the Learned Trial Court. The Learned Trial Court shall resume the trial of the case soon after receiving the further report in final form to be

submitted by the SIT and completing all formalities like supply of copies and altering/adding to the charges, if required.

22. With these observations and directions, this application is disposed of.

23. Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon completion of requisite formalities.

(Jay Sengupta, J.)