

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Criminal Appellate Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

CRR 1459 of 2017

With

CRAN 2 of 2017

CRAN 5 of 2019

Mahendra Kumar Sarda & Anr.

Vs.

State of West Bengal

For the Petitioners	: Mr. Anirban Dutta : Mr. Sayantan Sinha
For the opposite party 2	: Ms. S. Ojha
For the State	: Mr. Imran Ali Mirza Feroze Begg

Heard on: 21st December, 2020

Judgment on : 21st December, 2020

The Court:

This is an application challenging the order dated 18.03.2017 passed by the learned Metropolitan Magistrate, 4th Court at Calcutta in G.R. Case No. 2830 of 2015 under Sections 406, 420 and 120B of the Indian Penal Code.

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioners are the accused in this case. A warrant of arrest was issued against the petitioners. They appeared before the learned trial court on 18.03.2017, prayed for bail and were in fact released on bail. But, on the very same day, without supplying copies of prosecution papers, charges were framed against the petitioners under Sections 406, 420 and 120B of the Indian Penal Code. Framing of charge without supplying copies to the accused is absolutely bad in law and needs to be forthwith set aside.

Learned counsel appearing on behalf of the State in his usual fairness, submits that framing of charge in a criminal trial cannot take place without supply of copies to the accused.

Learned counsel appearing on behalf of the opposite party no. 2 / de facto complainant submits that the proceeding before the learned trial court is stalled because of the pendency of this application and as such, the revisional application ought to be disposed of at the earliest.

I have heard the learned advocates for the parties and have perused the revision petition.

It is not denied by the learned advocates for the State and the private opposite party that charges were framed in this case without supply of copies of prosecution papers to the accused.

Framing of charge against an accused without supply copies of documents on which the prosecution relies, as contemplated under Section 207 or 208 of the Code, to the accused is not at all tenable in the eye of law.

In view of the above, I have no hesitation in setting aside the impugned order so far as the framing of charges and the fixing of dates for evidence are concerned. I remand the matter back to the learned trial court to commence the proceeding afresh from the stage of supply of copies to the accused.

It is expected that copies of necessary documents shall be supplied to the accused at the earliest and the proceedings shall be commenced therefrom.

With these observations, the revisional application and the connected applications are disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta,J.)