

21.10.2020
Item no. 14
Ct. No.13
CHC

**C.R.R. No.1428 of 2020
(Via Video Conference)**

In Re:- An application under Section 482 of the Code of Criminal Procedure, 1973.

And

In the matter of:-

Krishna Barman & anr.

... Petitioners

Mr. Swagata Datta

... for the petitioners

Mr. Swapan Banerjee,

Mrs. Purnima Ghosh

...for the State

This is for quashing of a proceeding now pending before A.C.J.M. Gangarampur at Buniadpur in connection with G.R. Case No.851 of 2018 under Sections 447/323/325/379/307/34 of the Indian Penal Code.

It is submitted by the learned advocate for the petitioners that petitioners have been falsely implicated in this case, as at the relevant point of time in connection with their occupation they had to stay abroad, and as such they had no occasion to take part in the alleged crime.

It is further submitted by learned advocate for the petitioners that charge sheet in this case has since been submitted and other co-accused are now on bail, out of eight accused persons cited in

the charge sheet. It is also contended that the petitioners are highly apprehensive of their arrest and have no fault on their part.

Learned advocate, Mr. Banerjee representing the State/opposite party is present and submits that when charge sheet has been submitted making out a *prima facie* case, the prayer for quashing should not be entertained.

When the petitioners seeking quashing, are submitted to be in abroad at the relevant point of time they having no knowledge of the submission of charge sheet in connection with this case, the revisional application may be disposed of passing a suitable direction.

As State is present and submits for refusal of the prayer for quashing, the Court is of the view that notice upon the opposite party no.2 is not necessary and accordingly service upon the o.p. No.2 stands dispensed with.

Petitioners are directed to surrender before the Learned A.C.J.M., Gangarampur at Buniadpur, Dakshin Dinajpur within four weeks from hence and furnish bail application before the court below upon surrendering within such stipulated period.

If any bail petition is filed, the same shall be addressed by the learned court below and disposed of in accordance with the law providing sufficient opportunity of hearing to either of the parties to this case.

Since charge sheet has already been submitted in this case, the Court shares same view as subscribed by the learned advocate representing the State that a *prima facie* case has

already been made out. The prayer for quashing is refused without entering into the merits of the case. However, petitioner is given liberty to raise all such points before the learned court below at the time of charge hearing and if any points is raised the trial court would decide such issue in accordance with the provisions of law providing opportunity of hearing to either of the parties to this case.

With this direction and observation, the revisional application stands disposed of.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

Urgent xerox certified copy of this order if applied for be given to the parties subject to compliance with all requisite formalities.

(Subhasis Dasgupta, J.)

