

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

C.R.R. 1556 of 2020

Asfak Khan @ Asfaqueddin Khan & Ors.
Vs.
Afroja Khatun & Anr.

For the Petitioners : Mr. Subhasish Pachhal

For the State : Mr. Saibal Bapuli,
Mr. Arijit Ganguly.

Heard on : 18.11.2020

Judgement delivered on : 18.11.2020

Jay Sengupta, J. :

1. This is an application challenging an order dated 01.10.2020 passed by the learned Additional Sessions Judge, 2nd Court, Uluberia, Howrah in S.T. No.141 (u) 2015 (new S.T. No. 20/2016).

2. Supplementary affidavit filed on behalf of the petitioners is taken on record. Among other things, it incorporates certified copy of the order sheet of the learned Trial Court.

3. Learned Counsel appearing on behalf of the petitioners submits as follows. The petitioners, as accused in this case, were regularly attending Court. Due to the prevailing pandemic situation, on two occasions the petitioners were unable to take steps before the learned Trial Court. On 01.10.2020 the evidence of the DWs was closed and warrant of arrest was issued against the accused. Even on the previous day steps could not be taken because of the prevailing condition. It is germane to mention that on both the days, resolutions were passed by the local bar association requesting the Court not to pass any adverse order. The accused want to join the proceeding at the earliest and pray that a single day's opportunity may be given to them to adduce defence evidence.

4. Learned Counsel appearing on behalf of the State, in his usual fairness, submits that the State would not come in the way if the accused want to join the proceeding. However, if any opportunity is given to the accused to adduce defence evidence, the examination may be done on a particular day.

5. I have heard the submissions of the learned Counsels appearing on behalf of the petitioners and the State and have perused the revision petition and the supplementary affidavit.

6. No prejudice will be caused to anyone if a direction is passed either upon the accused to surrender before the learned Trial Court or to allow a single day's opportunity to them to produce defence witness.

7. It appears that the local bar association had taken resolutions on the relevant dates because of the prevailing pandemic situation requesting the learned Trial court not to pass any adverse order. The accused might have been swayed by the resolutions and the pandemic situation might have actually prevented them from taking necessary steps before the learned Trial Court on these dates. Be that as it may, it appears that the accused/petitioners want to join the proceeding at the earliest.

8. In view of the above and in the interest of justice, I direct that the warrant of arrest issued against the petitioners shall remain stayed for a period of four weeks from this date and the petitioners are directed to surrender before the learned Trial Court within the said stipulated period of four weeks. In the event, the petitioners surrender before the learned Trial Court within the stipulated time, their prayer for bail shall be considered in accordance with law. The direction to close defence evidence is set aside. The learned Trial Court is requested to fix a date for the accused to adduce defence evidence. But, the examination shall be confined to a single day and necessary notices may be given to the concerned parties in respect of such date.

9. With these observations, the revisional application is disposed of.

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

(Jay Sengupta, J.)