

07.12.2020

Item No.26

Ct.No.42

dc.

C.R.R. 1677 of 2020

Krishan Pal Singh & Anr.

versus

The State of West Bengal & Anr.

Mr. Sabyasachi Mukherjee,
Mr. Bibek Dey ... For the Petitioners.

Mr. S. G. Mukherjee, Ld. P.P.,
Mr. Arijit Ganguly ... For the State.

The learned advocate for the petitioners is present.

The learned advocate for the petitioners challenges the proceedings relating to Dum Dum P.S. Case No. 327 of 2020 dated 18.06.2020 wherein charge-sheet has already been filed by the investigating agency on completion of the investigation and is presently pending before the learned Additional Chief Judicial Magistrate, Barrackpore.

The learned advocate appearing for the petitioners submits that the petitioner no.2 was not there at the place of occurrence and to that effect, he refers to a government document.

The learned advocate for the petitioners is directed to effect service upon Mr. Arijit Ganguly, learned advocate who ordinarily appears for the State.

The learned advocate for the State contends that the issue raised by the petitioners is a plea of alibi and cannot be adjudicated by this Court in an application under Section 482 of the Code of Criminal Procedure.

I have taken into account the propositions so submitted by the learned advocate for the petitioners and on appreciation of the settled position of law, I am of the view that the issue so raised by the petitioners is absolute question of facts, as this Court while adjudicating an application under Section 482 of the Code of Criminal Procedure is not empowered to take into account any document whose authenticity is to be ascertained, this Court is not in a position to adjudicate upon such issue. As such, no interference is called for at this stage of the proceedings.

Accordingly, the revisional application is disposed of with the liberty granted to the petitioners that the petitioners would adduce such evidence both oral and documentary, if so advised, at the appropriate stage of the proceedings and any order passed by this Court will not have any bearing on the issue so canvassed by the petitioners before the learned court below.

With the aforesaid observations, CRR 1677 of 2020 is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with the necessary formalities.

(Tirthankar Ghosh, J.)