

Sr. 49
17-12-2020
s. d.
ct, no.42

CRR 1779 of 2020

In Re : **Pawan Kumar Tiwari** **petitioner.**

In the matter of : An application under Section 401 read with
482 of the Code of Criminal Procedure.

Mr. Navnil De
Mr. Md. Apzal Ansari
.....for the petitioner.

Mr. Y. Z. Dastoor, ld. A.S.G
Mr. Phiroze Edulji
....for the U.O.I

Mr. Kaushik Dey
Ms. Manasi Mukherjee
....for the Customs Authorities.

Mr. De, learned advocate appearing for the petitioner is aggrieved by the order dated December 3, 2020 passed by the learned Special Judge, Bench-I, NDPS Act, City Sessions Court, Calcutta thereby refusing the prayer relating to return of the seized wrapper materials.

Mr. Dastoor, learned Additional Solicitor General appearing for the opposite party no. 1, Union of India opposes such prayer and submits that the learned court below rightly rejected the application for return of the seized goods(as referred to above). Separately, Mr. Koushik Dey,

learned advocate appears for the opposite party no.2, being the Customs Authorities.

I have taken into account the order dated December 3, 2020 passed by the learned Special Judge, Bench-I, NDPS Act, City Sessions Court. Calcutta.

Having considered the fact that certain issues are technical and the application was taken out at a stage when the investigation was at its inception, I direct the learned Special Judge to reconsider the prayer for return of the seized wrapper materials, if a fresh application is taken out at the instance of the petitioner which would provide specific details relating to the manufacturing company, the consignee and the invoices which were subject to the dissatisfaction of the learned judge itself.

As has been prayed for by the learned Additional Solicitor General that as the investigation is in progress, the learned court should also be given the liberty to consider whether the seized wrappers were the subject matter of offence.

In view of the aforesaid, the petitioner is granted liberty to prefer a fresh application by 7th January, 2021.

In case such an application is filed, the investigating authorities would be granted at least two weeks' time to verify the contents and the documents so relied upon by the petitioner and thereafter allow the authorities to submit a report.

After taking into consideration the report of the investigating officer and hearing both the petitioner and the learned advocate appearing for the Customs Authorities, the learned special court would independently consider the application for return of the seized wrapping materials.

With the above observations, CRR 1779 of 2020 is disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Tirthankar Ghosh, J.)