

23.08.2021

Ct No. 35

D/L 5

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C.R.R. 255 of 2021
(Via Video Conference)

Re: An application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973.

In re : **Aizul Laskar @ Azizul Laskar & Ors.**

... Petitioners

Mr. Tarique Quasimuddin,
Ms. Sanchita Chaudhuri,

... for the petitioners

Mr. Binoy Kumar Panda,
Ms. Puspita Saha,

... for the State

The petitioners filed an application under Section 311 of the Code of Criminal Procedure, 1973 for recalling of P.W.-38 in connection with Sessions Case No. 1(12) of 2011 under Section 396 of the Indian Penal Code, 1860 and Sections 25(1)(b)(a)/27 of the Arms Act, 1959, pending before the learned Additional Sessions Judge, 1st Court at Sealdah.

The learned Sessions Judge in the Court below by an order dated January 4, 2020, kept the said application, filed on behalf of the petitioners, on record.

It appears that another application was filed by the petitioners before the learned Sessions Judge for correction of evidence of P.W.-39 under Section 278 read with Section 276 of the Code of Criminal Procedure, 1973. Soon after the evidence

was recorded, the petitioner made the said application, for correction of evidence on February 20, 2020. The learned Sessions Judge in the Court below, by an order dated February 4, 2020, directed that the said application for correction would be taken up for at the time of judgement.

It is the grievance of the petitioners that the said two applications have not yet been disposed of, though the learned Sessions Judge in the Court below has fixed the next date for argument by the prosecution.

Mr. Binay Panda, learned advocate appearing for the State, submits that the petitioners are adopting dilatory tactics to delay the trial, and those two applications are vexatious in nature.

I am unable to accept the stand of the State.

When the petitioners filed the application for recalling of P.W. 38 under Sections 311 of the Code and the application for correction of evidence under Section 278 read with Section 276 of the Code, the learned Sessions Judge in the Court below ought to have disposed of the said two applications before the commencement of the argument. The merit of the trial may depend upon the outcome of the said applications.

In view of that, the revisional application is allowed directing the learned Sessions Judge in the Court below to dispose of the aforesaid two applications filed by the petitioners, within a period of four weeks from date. The learned Sessions

Judge in the Court below shall proceed with the trial after the said applications are disposed of.

The revisional application being **C.R.R. 255 of 2021** is, thus, disposed of.

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

(Kausik Chanda, J.)