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September
17, 2021
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C.R.R. No.606 of 2011
With
CRAN 1143 of 2011
(Via Video Conference)

In Re: An application under Section 397/401 of the Code of Criminal
Procedure read with Section 482 of the Code of Criminal Procedure.

Bhagirath Ankuria & Ors.
Versus
The State of West Bengal & Anr.

Mr. Uday Sankar Chattopadhyay,
Mr. Santanu Maji,
Ms. Snigdha Saha,
Mr. Pronay Basak.
...for the petitioners.

Mr. Arijit Ganguly,
Mr. Sandip Chakraborty.
...for the State.

Records of the revisional application reflect that the instant complaint is of the year 2004. The learned Sessions Court on conclusion of trial in a case under Sections 448/323/326/307/506/34 of the Indian Penal Code and Sections 25/27 of the Arms Act was pleased to hold the accused persons guilty only under Section 323/34 of the Indian Penal Code.

The sentence so imposed in respect of each of the petitioners are extracted below:

The petitioner no.1, namely, Banku Ankuria, was sentenced to simple imprisonment for two months and to pay fine of Rs.1,000/-, in default to suffer a further simple imprisonment for fifteen days. The petitioner no.2, namely, Bhagirath Ankuria, was

sentenced to simple imprisonment for two months and to pay fine of Rs.1,000/-, in default to suffer a further simple imprisonment for fifteen days. The petitioner no.3, namely, Paban Ankuria, was sentenced to fine of Rs.1,000/-, in default to suffer simple imprisonment for fifteen days. The petitioner no.4, namely, Tirtha Ankuria, was sentenced to fine of Rs.1,000/-, in default to suffer simple imprisonment for fifteen days.

Having regard to the fact that the instant complaint is of the year 2004 and the petitioners are suffering agony for pendency of the criminal case for last 17 years, I am of the view that no fruitful purpose would be served by sending the petitioners to prison/jail at this stage. Accordingly, the order of conviction is confirmed. The sentence is altered in respect of the petitioner nos.1 and 2. The petitioner nos. 1 and 2, namely, Banku Ankuria and Bhagirath Ankuria would pay a fine of Rs.1,000/- each as in the case petitioner nos.3 and 4, namely, Paban Ankuria and Tirtha Ankuria.

So far as the default clause is concerned, the same would be maintained.

Such fine should be paid by 8th October, 2021. On payment of such fine, the learned trial court or the jurisdictional Magistrate's court would inform to the concerned authorities regarding their substantial sentences for sending to jail having been set aside.

Accordingly, CRR 606 of 2011 is partly allowed.

Pending application, if any, is consequently disposed of.

Department is directed to communicate this order to the trial court as well as the jurisdictional Magistrate's court within a period of seven days from date.

The learned trial court and the jurisdictional Magistrate are directed to act on the server copies of this order duly downloaded from the official website of the High Court, Calcutta.

(Tirthankar Ghosh, J.)