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C.R.R. 600 of 2012

(Via Video Conference)

In re: An application under Section 397/401 read with Section 482 of the Code of Criminal Procedure, 1973.

In the matter of: Biplab Naskar & Anr.

Mr. Sekhar Kumar Basu, Sr. Advocate,
Mr. Antarikhya Basu, Advocate

. ..for the petitioners.

Mr. Bidyut Kumar Roy, Advocate
Ms. Monisha Sharma, Advocate

.... For the State.

Mr. Basu, learned advocate appears on behalf of the petitioners and submits that the evidence so appreciated by the learned Judicial Magistrate, 2nd Court, Diamond Harbour and also the learned Additional Session Judge, 6th Fast Track Court, Alipore are not in accordance with the settled provisions of law.

Mr. Roy, learned advocate appearing for the State opposes such contentions.

I have perused the record of the case and find that the incident is of 15th of August, 2000 that is almost 21 years have passed in the meantime. Having considered the fact that both the courts have appreciated the evidence and come to a finding of guilt I find there is no manifest error appearing in the appreciation of evidence.

I am of the view that on the factual score, it would be very difficult to interfere with the orders passed by both the courts. However, having regard to the mental agony which the petitioners have suffered during the pendency of proceeding for more than 20 years. I am of the view that no useful purpose would be served by sending them to prison at this stage.

Accordingly, the sentence so imposed by the learned Magistrate and affirmed by the learned Sessions Court in criminal appeal is hereby converted to the period which has already been undergone by the present petitioners. In the event, the petitioners are not involved in any other case. They should be discharged from the bail bonds.

Pending application, if any, is disposed of.

Interim order, if any, stands vacated.

Accordingly, CRR 600 of 2012 is partly allowed.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Tirthankar Ghosh, J.)

