

01.06.2021
Item no.7
Ct. No.42
CHC

**C.R.R. No.820 of 2021
(Through Video Conference)**

In the matter of:-

Sri Buddhadeb Das @ Raja
... petitioner

Mr. Uday Chandra Jha

...for the petitioner

Mr. Madhusudan Sur, Ld. A.P.P.

Mr. Manoranjan Mahata

...for the State

This is for quashing of proceeding in connection with Sessions Trial Case No. being S.T. No.06(02)2021 under Sections 120B/302/324/212/34 of the Indian Penal Code, now pending before the learned Additional Sessions Judge, 12th Court, Alipore, South 24 Parganas.

Mr. Uday Chandra Jha, learned advocate for the petitioner submits that the petitioner has been falsely implicated in this case as he had no occasion to take part in the alleged crime. His name also remained undisclosed in F.I.R. and his name subsequently transpired during investigation. The statements relied upon by the prosecution leading to the involvement of the petitioner, according to the petitioner, is not warranting so as to justify involvement of petitioner in the alleged crime and their statements would not inspire any confidence upon them.

It is specifically contended by the learned advocate for the petitioner that petitioner was not given any opportunity to dispute with the materials already collected against the petitioner and as such petitioner was deprived of charge hearing for challenging the materials collected against him during the course of the investigation.

Mr. Sur, learned advocate representing the State submits that in this case, the Court has already framed charge on 10th February, 2021 and the Court has already fixed schedule of dates for collection of evidence. The attention of the Court is also drawn, as produced by Mr. Sur, that the prayer for bail of the petitioner in connection with C.R.M.10069 of 2020 has already been rejected.

Admittedly, this is a murder case in which charge has already been framed and the Court has already fixed the schedule for collection of evidence.

The points now raised by the learned advocate the petitioner regarding appreciation of the statement of the witnesses being relied upon by the prosecution are perceived to be a subject matter of trial, which cannot be decided at this stage without going into the trial.

Significant feature of this case is that in this case it is alleged that, that petitioner was deprived of making any charge hearing to dispute with the materials collected against him, but no petition was filed at any point of time seeking a charge hearing before the learned court below.

The alleged involvement of the petitioner in the instant crime may be best decided after looking into the evidence to be adduced by either of the parties to this case. The point now raises may be raised during the trial putting up defence favourable to the purpose of petitioner. The point now raises is thus left to be decided by the trial court at the appropriate stages of hearing. There will be no prejudice caused to the petitioner, if the trial is held with the materials already collected by the prosecution during the stage of investigation. When the Court has already framed charge upon seeing the *prima facie* materials against the petitioner, the order of framing charge must go unaltered at this stage. The revisional application stands dismissed as such.

Petitioner is given liberty to raise all points now raises at the time of trial and learned trial court will decide such points in accordance with the provisions of the law providing sufficient opportunity of hearing to either of the parties to this case.

(Subhasis Dasgupta, J.)