

Sr. 06
08-06-2021
Subha
ct, no.34

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE
(Via Video Conference)**

**CRR 1805 of 2019
with
CRAN 01 of 2020(Old CRAN No. 484 of 2020)
with
CRAN 02 of 2020(Old CRAN No.1095/2020)**

In Re : **Shambhu Thakur & Ors.** petitioners.

In the matter of : An application under Sections 497/401 of
the Cr.P.C read with Section 482 of the Cr.P.C.

Mr. Avik Ghatak
Mr. Sohgam De Dhara

.....for the petitioners.

Mr. Ashok Kumar Singh
Mr. Sanjib Bandyapadhyay

....for the opposite parties.

The petitioners are aggrieved by the order passed by the learned Judicial Magistrate, 7th court, Asansol in connection with Complaint Case No. 713 of 2014 wherein by the order dated 24th April, 2019, the learned Magistrate was pleased to refuse the application under Section 205 of the Code Criminal Procedure preferred at the instance of the present petitioners.

I have perused the contentions raised in the application under Section 205 of the Code of Criminal Procedure and I am of the view that an affidavit in respect of the accused persons whose dispensation from personal appearance is required from the day-to-day proceedings must be filed before the learned trial court with the specific contentions that they will not challenge in any appellate court that they have been prejudiced, if any evidence is recorded in their absence. Such application should also include regarding the identity of the accused persons would never be challenged and all steps taken by the learned lawyer representing them have been approved by them.

If the petitioner nos. 1, 3, 5 and 7 take out an application along with an affidavit specifying the aforesaid contentions, the learned Magistrate would consider the same in its proper perspective so that they are not asked to be present in court regularly till the date of consideration of charge.

So far as the prayer of the petitioner nos. 2 and 4 are concerned, namely, Ranjeet Thakur @ Sindhu and Sanjeet Thakur @ Bindhu, the same is rejected.

If on a particular date the petitioner nos. 2 and 4 are unable to attend the court, their learned lawyer would file an application under Section 317 of the Code of Criminal Procedure assigning the reasons for being absent on such date and allowing the trial to proceed. The learned trial

court should immediately commence the evidence of the complainant before charge and proceed with the same as the issue of appearance of the accused is continuing for more than seven years.

Needless to state that if any of the accused persons till date has not appeared and seems to be absconding, the learned court would exhaust the process of law, segregate the present petitioners from the said accused and proceed with the case as directed above.

With the aforesaid observations, *CRR 1805 of 2019* and all connected applications thereto i.e., *CRAN 01 of 2020*(*Old CRAN No. 484 of 2020 and CRAN 02 of 2020*(*CRAN NO. 1095 of 2020*) are disposed of.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)