

08.09.2021
Sl. No.40
Court No.34
BM

CRR 2595 of 2018

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IA No.CRAN/1/2021

Sudhir Kumar Singh

Vs.

State of West Bengal & Anr.

Mr. P. K. Gupta

Mr. A. K. Rani

... for the petitioner

Mr. Purbangshu Chandra Mitra

Mr. Arindam Sadhukhan

Ms. Piyali Mitra

... for the opposite party no.2

The learned advocate for the opposite party no.2 is granted liberty to make necessary corrections in the affidavit so filed before this Court. Affidavit so filed be kept with the record.

The petitioner approached this court against the order of taking cognizance and issuance of process by the learned jurisdictional magistrate in connection with case No.N.I. 36 of 2017. During pendency of the proceeding before this Court affidavit filed on behalf of the complaint/opposite party no.2 reflects that the case has proceeded to the stage of examination of the accused under Section 313 of the Code of Criminal Procedure.

Mr. Gupta learned advocate appearing for the accused petitioner draws the attention of this court to the order dated 7.9.2019 when the cross examination of the PW-1 was closed because the lawyer appearing for the present petitioner declined to cross examine the witness.

I find no fault of the learned magistrate in passing the said order. However, as natural justice cannot be denied in such cases where the presumption heavily runs against the accused, the prayer of the petitioner/accused is to be considered.

Having regard to the same, I am of the view that if an application under Section 311 of the Code of Criminal Procedure is taken out by the accused/petitioner before the learned jurisdictional court within a period of 15 days from date, the learned magistrate would allow the petitioner/accused to complete his cross examination within a fortnight from the date so fixed. The learned magistrate would thereafter proceed to the stage of Section 313 of the Code of Criminal Procedure for examination of the accused as earlier directed.

With the aforesaid directions CRR 2595 of 2018 is disposed of.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

The learned jurisdictional court is directed to proceed with the matter and no hindrance must be created by any lawyer in respect of the proceeding of the case under any circumstances. The jurisdictional court would be at liberty to fix dates as it deems fit and proper.

The learned jurisdictional court is directed to act on the server copy of this order downloaded from the official Website of the Hon'ble High Court at Calcutta.

(Tirthankar Ghosh, J.)