

August 31, 2021  
ARDR (65)

**CRR 2926 of 2019**  
+  
**IA CRAN 1 of 2021**

In Re : Dr. Anagh Banerjee vs. The State of West Bengal & anr.,

Mr. Rajdeep Mazumder,  
Mr. Moyukh Mukherjee,

...for the petitioner.

Mr. Debasish Roy,  
Mr. Atis Kumar Biswas,  
Mr. Partha Sarkar,  
Mr. Amit Singh,

.for the OP No.2.

Mr. Madhusudan Sur,  
Mr. Manoranjan Mahata,

...for the State.

This revisional application has been preferred for quashing of the proceedings relating GR Case no. 287 of 2018 arising out of Nalhati P. S. Case no. 66 of 2018 dated 24.2.2018.

Mr. Mazumder learned advocate for the petitioner draws the attention of this Court to the order dated 8<sup>th</sup> April, 2021 wherein the learned trial Court was pleased to frame charge against the present petitioner under Section 376(C)/493/217/506 of the Indian Penal Code.

Learned advocate submits that as the learned advocate appearing before the trial Court did not take it up seriously no application in the nature of Section 227 of the Code of Criminal Procedure was preferred thereby depriving the petitioner an audience at the stage of consideration of the charge.

Mr. Roy Learned Advocate appearing for the private opposite party vehemently objects to such contention and submits that as the lawyers were present there is no reason as to why the hearing could not be conducted, in fact they were enjoying the pendency of the revisional application, and as such, there should be no interference.

Mr. Sur learned Advocate for the State also opposes that the contentions advanced by Mr. Mazumder learned advocate for the petitioner.

The application for adjournment which has been enclosed do not reflect an appropriate approach of the learned lawyers who are representing the present petitioner.

However, the petitioner is facing serious charges before a criminal Court. Because of the approach of the learned lawyer for the petitioner, the petitioner himself who is supposed to face the consequences cannot be deprived of a right which is vested to him under the law.

Mr. Mazumder learned advocate for the petitioner undertakes that within a period of ten days an application under Section 227 of the Code of Criminal Procedure would be filed before the learned trial Court.

Having regard to the undertaking given by the learned advocate for the petitioner, I am of the view that an opportunity must be afforded to the petitioner to address his grievances and he ought to have an audience from the learned trial Court with regard to the fact he intends to place.

Consequently, the order dated 8<sup>th</sup> April, 2021 passed by the learned trial Court is set aside.

Needless to state that I have not gone into the merits of the case, but it is only an opportunity being granted to the petitioner to present his case which he could not effectively do because of the approach of his representatives before the Court. Learned Trial Court will not be swayed by any observation made by this Court and would independently arrive at his own finding.

Another fact which is important in this case is that the case registered in the year 2018 and the sessions case was registered in the file of the learned trial Court in the year 2020.

As the learned lawyer for the State and the learned advocate for the petitioner has undertaken that without any unnecessary delay the trial of the case would proceed, I direct that even if any resolution is taken by the local Bar, the trial would proceed on the specified date fixed by the learned trial Court. There should be no adjournment for non participation on any flimsy ground.

The learned trial Court is further directed to dispose of the application under Section 227 of the Criminal Procedure Code by 27<sup>th</sup> September, 2021.

With the aforesaid observation, CRR 2926 of 2019 is disposed of.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

Learned trial Court is directed to act on a server copy of this order, duly downloaded from the official website of this Court.

**(Tirthankar Ghosh, J.)**