

01 07.01.2021
g.b. Court No. 42

CRR 1686 of 2020

Neville Dadi Master @ Neville Master

Vs.

The State of West Bengal & Anr.

**Mr. Sandipan Ganguly, Sr. Advocate
Mr. L. Vishal Kumar
.....For the petitioner**

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

Mr. Dipankar Paramanick

.....For the State

In Re: An application under Article 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 in connection with Entally Police Station Case No. 281 dated 09.08.2017 under Sections 419/353/447/120B of the Indian Penal Code read with Section 12 of the Prevention of Corruption Act, 1988 and the corresponding proceedings of Criminal Case No. 05 of 2019 pending before the Court of the learned Judge, 1st Special Court, Alipore, South 24 Parganas.

Report submitted by the learned advocate for the State be kept with the record.

The petitioner is aggrieved by the manner in which the investigation has been continuing even after the statutory time period prescribed under the Code of Criminal Procedure (Section 167(5) of the Code of Criminal Procedure) has expired.

Mr. Ganguly, learned senior advocate appearing for the petitioner submits that an application under Section 167(5) of the Code of Criminal Procedure was preferred before the learned court on 02.03.2020 with the prayer for stopping the investigation into the case and discharging the accused. According to the learned counsel till date the said application is pending for consideration.

Mr. Sur, learned advocate for the State submits that different Investigating Officers have conducted investigation of the case and the present Investigating Officer has been engaged on January, 2020.

I have perused the case diary and is of the opinion that within the stipulated period prescribed under Section 167(5) Cr.P.C. substantial part of the investigation was complete and as such the learned court should take the same into consideration, in view of the settled position of law as expressed by the Hon'ble Apex Court in ***“Nirmal Kanti Roy Vs. State of West Bengal reported in (1998) 4 SCC 590”***. It has been held in paragraph 8 of the said case ***“If substantial part of investigation was by then over, the Magistrate should seriously ponder over the question whether it would be conducive to the interest of justice to stop further investigation and discharge the accused.”***

In view of the aforesaid, I direct that the learned court would take up the issue on 27.01.2021 as to whether the materials so far collected by the Investigating Agency is sufficient for proceeding with the trial of the case or not. In case the court finds that there are sufficient materials, the court would proceed, in the alternative, the court would consider the prayer so advanced by the petitioner.

Needless to state that even after the cognizance is taken, the Investigating Agency is not precluded for continuing with the investigation under Section 173(8) of the Code of Criminal Procedure.

In case the regular court is not present, the court acting in charge of the said Special Court would deliberate on the issues as has been stated above. Both the parties are directed to be present on the date so fixed.

With the aforesaid observations CRR 1686 of 2020 is disposed of.

The Investigating Officer of this case is present. His further appearance before this court is disposed with.

The learned court below would act on the server copy of this order.

(Tirthankar Ghosh, J.)

