

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 1835 of 2020

J. Hazarika & Ors.

-vs-

The State of West Bengal & Anr.

For the Petitioners : Mr. Sourav Chatterjee,
Mr. Ritoban Sarkar,
Mr. Soumya Nag,
Mr. Subhadeep Adhikari

For the Opposite Party : Mr. Anirban Ray,
Ms. Sreeparna Das,
Mr. Anirudha Agarwalla,
Mr. B. Sharma

Heard on: 28.01.2021

Judgment on: 28.01.2021

Jay Sengupta, J.:

This is an application challenging the order dated 4.3.2020 passed by the learned Chief Judge, City Sessions Court, Calcutta in Criminal Revision no.301 of 2019 thereby dismissing the same and affirming the order dated 5.9.2019

passed by the learned Metropolitan Magistrate, 20th Court, Calcutta in Case No. CS/30045 of 2019 pending before the learned Metropolitan Magistrate, 20th Court, Calcutta under Sections 138/141 of the N.I. Act.

Mr. Chatterjee, learned counsel appearing on behalf of the petitioners submits as follows. The petitioners' application under Section 205 of the Code was allowed on consent on 5.9.2019. However, the order was subject to the condition that the accused would remain present during plea, the examination of the accused under Section 313 of the Code and the delivery of the judgment. The petitioners challenged this order on the point of imposition of such condition before the learned revisional court. However, their application was dismissed. The petitioners rely on the decision of this Court passed in *Shaleen Khemani and Ors. -vs- The State of West Bengal and Ors.*, MANU/WB/1355/2017 and submit that in the facts of the present case, the present petitioners should be allowed the privilege of exemption from personal attendance under Section 205 of the Code, even at the time of taking plea and the examination of the accused under Section 313 of the Code.

Mr. Ray, learned counsel appearing on behalf of the complainant/opposite party, upon instructions, submits as

follows. The complainant/opposite party has no objection if the prayer of the petitioners for being allowed to be represented under Section 205 of the Code at the time of recording of plea and the examination of the accused under Section 313 of the Code.

In view of the above, I set aside the impugned order and direct that the petitioners shall be exempted from personal appearance and be allowed to be represented under Section 205 of the Code, even during recording of plea and the examination of the accused under Section 313 of the Code.

The petitioners shall not raise any prejudice at a subsequent stage of the proceeding over this issue.

With these observations, the revisional application is disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Jay Sengupta, J.)

