

11.03. 2022
item No.24
n.b.
ct. no. 34

CRR 88 of 2020
IA No. CRAN 2 of 2020(Old No. CRAN 4201 of 2020)

Central Bureau of Investigation
Vs.
Kazi Md. Tanbir

Mr. Anirban Mitra
.....for the Petitioner

Mr. Saswata Gopal Mukherjee, P.P.,
Mr. Arijit Ganguly,
Ms. Debjani Sahu
.....for the State

Mr. Sarthak Burman,
... for the opposite party.

Affidavit of service so filed be kept with the record.

Mr. Mitra, learned advocate appears on behalf of the
Central Bureau of Investigation.

Mr. Burman, learned advocate appears for the opposite
party/accused.

Learned advocate for the petitioner/CBI draws the
attention of this Court to the order dated 23.7.2019 passed by the
Learned District and Sessions Judge, North 24 Parganas, wherein
the learned Sessions Judge was pleased to observe that the
application for cancellation was not maintainable as the State of
West Bengal has not been made a party in Criminal Misc. case
no.1753 of 2019. The investigation being carried out by CBI
pursuant to an order passed by the Hon'ble Supreme Court and is
the Investigating Agency as well as the Prosecuting Agency. The

absence of State of West Bengal as a party in a cancellation of bail application cannot be a ground for rejecting the application preferred for cancellation.

The State of West Bengal is not even a necessary party in this case as they are neither the Investigating Agency nor the Prosecuting Agency. Accordingly, the order so passed is not sustainable in law and as such the same is set aside.

The learned Sessions Judge, North 24 Parganas is directed to issue notice upon the petitioner as well as the accused/opposite party and fix a date for hearing on the merits of the application for cancellation. It would be for the respective parties to contest regarding the maintainability and the application of laws relating to cancellation before the Learned Sessions Court.

Needless to state, this Court has not gone into the merits of the case. The learned Sessions Court would independently consider the application without being influenced by any observation made by this Court.

With the aforesaid observations, CRR 88 of 2020 is allowed.

All pending connected applications, if any, are consequently disposed of.

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

(Tirthankar Ghosh, J.)