

D/L 15
April 1,
2022
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C.R.R. No.960 of 2020

In Re: A petition under Article 227 of the Constitution of India read with
Section 482 & 401 of the Code of Criminal Procedure, 1973;

Sri Rishikesh Meena.
Versus
The State of West Bengal & Anr.

Mr. Pratik Kr. Bhattacharyya,
Mr. Anubrata Santra.
...for the petitioner.

Mr. Ranabir Roy Chowdhury,
Mr. Mainak Gupta.
...for the State.

Mr. Sandip Kumar Bhattacharya,
Mr. Dipta Dipak Banerjee,
Ms. Sofia Nesar.
...for the opposite party no.2.

The revisional application was preferred by the accused petitioner challenging the orders dated 30th November, 2019 and 17th July, 2018 in connection with the proceedings arising out of Ballygunge Police Station Case No.86 dated 25.07.2014 presently pending before the learned Chief Metropolitan Magistrate, Calcutta.

In course of pendency of the proceedings, the trial of the case has progressed. Both the parties are aggrieved and there are numerous points involved regarding prejudice being caused.

Having regard to the stage of the trial and the fact that the examination-in-chief of the de facto complainant being cited as prosecution witness no.1 has already been completed and the cross-examination is to commence on the next date so fixed, I am not

inclined to adjudicate with all the issues which have been canvassed in the written submissions advanced by both the parties.

The primary grievance of the petitioner relates to non-supply of documents and additional documents being placed which were not supplied to them and the case proceeded ex parte on a date so fixed by the learned trial court.

During the course of argument, Mr. Pratik Kr. Bhattacharyya, learned advocate appearing for the petitioner supplied a list of documents which were not made available to the accused when the copies under Section 207 of the Code of Criminal Procedure was supplied to him. Learned advocate also supplied a list of documents in respect of which the learned Magistrate has admitted additional evidence but the copies were not handed over to the petitioner.

Mr. Roy Chowdhury, learned advocate appearing for the State has submitted a photostat copy of the list of documents which have been enclosed along with the signature of the petitioner regarding the copies of the documents being accepted. Let the same be kept with the record.

Mr. Pratik Kr. Bhattacharyya, learned advocate appearing for the petitioner on inspection has submitted that all such documents have been received by the petitioner.

The next grievance of the petitioner relates to the material exhibits. The other apprehensions expressed by the learned advocate for the petitioner are in respect of electronic gazette which may be marked as material exhibit. In case any

electronic gazette, compact disc., pen drive is brought in evidence by way of material exhibits, the learned Magistrate would exercise his option for making available contents thereof. If the same is impossible, then in the alternative learned Magistrate would give an inspection of the contents of the same in respect of the evidence which is sought to be adduced.

Mr. Pratick Kr. Bhattacharyya, learned advocate appearing for the petitioner has referred to the order dated 14th December, 2021 wherefrom it reflects that the present petitioner was unrepresented on the said date.

I find that on the said date number of documents were admitted in evidence.

In view of the petitioner being unrepresented on the said date, I direct the learned Magistrate will mark all the exhibits including the series of exhibits or material exhibits if any “as objected to on behalf of the petitioner.”

So far as the other issues are concerned which have been addressed before this Court, the same are not being commented upon both regarding the probative value and the mode and manner in which the evidence have been brought before the court, the same would be open for consideration at the stage of final arguments of the case and would be decided by the learned Magistrate at the time of final arguments of the case, on dual considerations firstly, the learned Magistrate would express his satisfaction regarding the manner in which the documents were brought in evidence and secondly as is usually done, the learned Magistrate would consider

the probative value of the evidence. Both the issues are kept open to be adjudicated by the learned trial court at the stage of final argument of the case in accordance with the judgment of the Hon'ble Supreme Court in **R.V.E Venkatachala Gounder Vs. Arulmigu Viswesaraswamy & V.P.Temple & Anr.** reported in **2003 (8) SCC 752.**

It has been submitted that the evidence-in-chief of the de facto complainant being the prosecution witness no.1 has already been completed and the next date has been fixed for cross-examination of the P.W.1 on behalf of the accused petitioner. It has also been submitted that tentatively the next date is fixed on 2nd April, 2022.

In view of the submissions made by Mr. Pratik Kr. Bhattacharyya, learned advocate appearing for the petitioner that he has received the copies very recently, the petitioner/accused may be provided some accommodation.

Learned Chief Metropolitan Magistrate, Calcutta is directed that in case the date is fixed for cross-examination on 2nd April, 2022, the learned Magistrate would postpone and fix the same on 12th April, 2022 for cross-examination of the P.W.1 on behalf of the present petitioner.

So far as the applications which are pending before the learned Magistrate and the grievance expressed by both the parties regarding supply and non-supply of documents at the relevant point of time, I am of the opinion that all those applications which relate to such prayers are deemed to be disposed of. If fresh applications

are filed, the same would be considered as subsequent development and the same should be considered in accordance with law.

It has been informed that in the charge-sheet the prosecution has relied upon tentatively 13 witnesses. The case was initiated in the year 2014 and the charge-sheet was submitted in the year 2015. Accordingly, learned Chief Metropolitan Magistrate, Calcutta would fix at least one date in every 60 days so that the trial of the present case can be progressed.

With the aforesaid observations, CRR 960 of 2020 is disposed of.

Pending application, if any, is consequently disposed of.

Interim order, if any, is hereby vacated.

As stated above, except the issue which has been specifically directed, rest of the points which are in the form of written submissions by the learned advocates for either of the parties have not been dealt with and are kept open for adjudication by the learned trial court at the stage of final arguments.

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

Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)