

21.6.2022
S.D.
27.

C.R.R. 927 of 2021

Shri Tushar Kanti Das
Vs.
The State of West Bengal & Anr

Mr. Anirban Majumder
Mr. Somnath De

...For the petitioner.

Mr. Debopan Roy
Mr. Aniruddha Dutta

...For the O.P.

Party/parties is/are represented in the order of their name/names as appearing in the Cause Title.

Affidavit of service has been filed by the learned advocates for the petitioner. The same is taken on record.

The petitioner herein has filed this application under Section 401 read with Section 482 of the Cr.P.C. praying for setting aside the proceeding in Complaint Case No. 443 of 2013 under Section 138 of the N.I. Act pending before learned Judicial Magistrate, 2nd Court, Tamluk, Purba Medinipur.

Learned advocates for the petitioner submitted that the petitioner has been impleaded as the sole accused person in the capacity of Secretary, Subodh Smriti Society for Rural Development. However, the complainant did not implead Subodh Smriti Society for Rural Development in the case nor was any notice served upon the society as an accused.

Learned advocates for the petitioner submitted that the petitioner is facing the trial on account of vicarious liability. In such a case without impleading the society under Section 141 of the N.I. Act, this case is not maintainable and it would be an abuse of process of the Court to proceed with the case.

Learned advocates for the opposite party no. 2 strongly opposed the prayer for quashing of the proceeding and submitted that the case was filed in the year 2013. Evidence has been completed and the case is fixed up at the stage of argument. The application filed by this petitioner is a delayed application and should be rejected.

Having considered the submissions made by learned advocates for both parties, it appears to me that the trial Court has already recorded evidence at length and the matter is fixed up for argument. At this situation, I am not inclined to foreclose the case by deciding upon the application under Section 482 of the Cr.P.C.

Learned advocates for the petitioner are granted liberty to argue on the points raised by them in this application before the learned jurisdictional court.

The revisional application is accordingly disposed of.

Interim order, if any, stands vacated,

Let a copy of this order be communicated to learned Judicial Magistrate, 2nd Court, Tamluk for information.

(Ananda Kumar Mukherjee, J.)

