

04.08.2022
S/L No.1
KS

C.R.R. 890 of 2010
Tapan Kumar Mondal alias Tapan Mondal
-Vs.-
The State of West Bengal & Anr.

Ms. Sreyashee Biswas
Ms. Puja Goswami
.....For the Petitioner
Mr. Saswata Gopal Mukherjee
Mr. Anand Keshari
.....For the State

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

Petitioner filed this revisional application under Section 401 read with Section 482 of the Code of Criminal Procedure assailing order dated 17.02.2010 passed by Learned Additional Sessions Judge at Kandi rejecting the prayer of the petitioner for adducing defence evidence as well as for sending the photostat copy of the discharge certificate to the Medical Superintendent, Kandi for the verification of its genuinity. The order was passed in Sessions Case No.70 of 2004 arising out of G.R. Case No.121 of 1997 corresponding to Burwan Police Station Case No.36 of 1997 under Sections 302/34 of the Indian Penal Code.

Perused the application and the impugned order passed by Learned Additional Sessions Judge.

Heard learned advocates for both the parties.

The petitioner being one of the accused persons was aggrieved with the order dated 17.02.2010 where the prayer for adducing defence evidence

was rejected. It appears to me that the sessions case is pending for more than 12 years and on the issue of non-examination of defence evidence,

proceedings of the case cannot be stalled any further by the petitioner/accused.

Mr. Mukherjee, Learned Public Prosecutor appearing for the State raised no objection to the prayer of the petitioner and submitted that in the event the sessions case is still pending, the Learned Trial Court may allow defence witnesses to be examined but the Xerox copy of document cannot be resent as this would amount to abuse of the process of court.

In view of such submission and the fact that it is always appropriate to allow accused persons to adduce evidence in their defence, the revisional application is allowed in part. The impugned order to the extent the prayer for adducing defence evidence was disallowed is set aside. However, the prayer of the petitioner for sending the xerox copy of discharge certificate for re-verification need not be considered. For the purpose of verifying such document, the court will evaluate its evidentiary value at the time of final hearing.

Accordingly, the revisional application is disposed of on its merit.

Interim order, if any, stands vacated.

In the event, the case is still pending, learned Additional District & Sessions Judge Kandi is directed to give opportunity to the petitioner to adduce defence evidence before hearing of argument. The accused petitioner should not delay the proceeding any further.

All parties should act on the server copy downloaded from the official website of this Hon'ble Court.

Let a copy of this order be sent to the court of learned Additional Sessions Judge at kandi for information.

(Ananda Kumar Mukherjee, J.)