

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side

Present:
The Hon'ble Justice Jay Sengupta

CRR 2635 of 2021

Rahul Kumar Shaw & Ors.
Vs.
The State of West Bengal & Anr.

For the Petitioners : Mr. Rajdeep Majumder
Mr. Moyukh Mukherjee
Mr. Pritam Ray

For the State : Mr. S.G. Mukherjee, Ld. P.P.
Mr. Joydeep Roy
Ms. Sujata Das

Heard on : 16th March 2022

Judgment on : 16th March 2022

The Court:

This is an application praying for quashing of a charge sheet in Golabari P.S. Case No. 231 of 2021 dated 20.07.2021 and all subsequent orders passed in this regard.

The application being CRAN 1 of 2022 is treated as on day's list.

Affidavit of service filed by the petitioners is taken on record.

Learned counsel appearing on behalf of the petitioners submits as follows. The impugned proceeding was earlier challenged before this Court on the ground of non compliance of the directions passed by the Hon'ble Apex Court in *Lalita Kumari vs. Govt. of U.P. & Others* reported in (2014) 2 SCC 1. By an order dated 06.09.2021 passed in CRR 1534 of 2021, this Court was pleased to stay the impugned proceeding until further order. In fact, finally on 02.12.2021 this Court was pleased to dispose of the application by quashing the impugned proceeding and directing the Investigating Agency to hold a preliminary inquiry before filing an F.I.R. In violation of this, during pendency of an order of stay, a charge sheet was submitted by the Investigating Agency on 05.10.2021. A warrant of arrest was also issued against the petitioner. The submission of charge sheet and the subsequent order issuing warrant of arrest cannot be sustained in the eye of law in view of the stay granted by this Court on the impugned proceeding and considering the subsequent quashing of the proceeding as directed by this Court.

Learned counsel appearing on behalf of the State submits as follows. Due to some miscommunication with the Investigating Officer, the impugned charge sheet was submitted during subsistence of the stay. This cannot be sustained in the eye of law. A direction may be passed upon the Investigating Agency to comply with the earlier order passed by this Court on 02.12.2021 in C.R.R. 1534 of 2021.

I have heard the submissions of the learned counsels for the parties and have perused the revision petition.

It is claimed on behalf of the State that due to some miscommunication, the Investigating Agency erroneously filed a charge sheet on 05.10.2021 during subsistence of an order of stay granted by this Court. In fact, the proceeding was subsequently quashed by this Court upon giving certain directions. Consequently, neither can the charge sheet nor the order issuing warrant of arrest be sustained in the eye of law.

Therefore, the impugned charge sheet dated 05.10.2021 and the consequent orders passed in pursuance of the submission of charge sheet are set aside.

The Investigating Agency is directed to act as per the direction of this Court given on 02.12.2021 in C.R.R. 1534 of 2021.

With these observations the revisional application and connected application are disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(JAY SENGUPTA,J)