

Item No.15
Ct.No.34
dc.

C.R.R. 2637 of 2021

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973.

Mr. Rajdeep Mazumder,
Mr. Moyukh Mukherjee,
Mr. Koustav Lal Mukherjee,
Mr. Sarthak Mondal ... For the Petitioner.

Mr. Ranabir Roy Chowdhury,
Mr. Sandip Chakraborty ... For the State.

Mr. Mazumder, learned advocate appearing for the petitioner submits that charge-sheet was filed in connection with Cyber Police Station Case No. 134 dated 01.12.2017 before the learned Chief Metropolitan Magistrate, Calcutta under Sections 66/66C/67 read with Section 43 of the Information Technology Act, 2000. According to Mr. Mazumder, the documents so relied upon by the prosecution to arrive at its finding so far as the present petitioner, viz. Biswajit Mukherjee is concerned, there are lack of materials to implicate the petitioner under Section 67 of the Information Technology Act, 2000. Learned advocate has also challenged the taking of cognizance on the point of limitation.

Mr. Roy Chowdhury, learned advocate appearing for the State disputed and opposed the contentions advanced by the learned advocate appearing for the petitioner and submitted that an elaborate assessment of the conduct of the

petitioner would prima facie make out an offence and the applicability of the Sections on which the petitioner is to be tried along with others are to be decided by the learned trial court.

So far as the applicability of Section 67 of the Information Technology Act, 2000 in respect of the present petitioner is concerned, I am of the opinion that there is substantial force in the submissions advanced by Mr. Mazumder, learned advocate for the petitioner and his view is somewhat substantiated in the documents so placed by the prosecution. However, assessment of the same is to be done by the learned trial court. Additionally, the learned trial court would be at liberty to consider the issue of limitation as raised by Mr. Mazumder.

Accordingly, the petitioner is granted liberty to file an application under Section 239 of the Code of Criminal Procedure on the next date fixed for hearing before the learned Magistrate. The learned Magistrate would, on receipt of such application, within a period of 90 days, after affording opportunity to the State and on perusal of the case diary or all relevant documents relied upon by the prosecution, arrive at his findings.

With the aforesaid observations, the revisional application being CRR 2637 of 2021 is disposed of.

Interim order, if any, is hereby vacated.

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.

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

(Tirthankar Ghosh, J.)