

22.9.2022
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SB
Ct. No.236

CRR 3219 of 2012
CRAN 5 of 2019
CRAN 6 of 2019
CRAN 7 of 2020

In the matter of : Asmat Ara Bibi & Ors.

Mr. Navanil De ... for the petitioners

Mr. Ranabir Roy chowdhury
Ms. Debjani Sahu ... for the State

Mr. De, learned counsel appearing on behalf of the petitioners is praying for restoration of the application to its original file after condoning the delay of thirty nine days which has been vehemently opposed by the learned counsel representing the State.

Having found sufficient explanation given by the petitioners justifying inability to appear before the Court on July 19, 2019 when the matter was called for hearing, I am inclined to condone the delay and to allow the petition for restoration.

Let the Revisional Application be restored to its original file. The applications being CRAN 6 of 2019 and CRAN 7 of 2020 are thus disposed of.

Petition under Section 482 of the Code of Criminal Procedure filed at the instance of three petitioners is taken up for hearing.

Mr. De, learned counsel for the petitioners submits that the petitioners are the mother, wife and married sister of Khondekar Musaraf Hossain. The petitioners have been arrayed in

this case as accused for allegedly committing offence under Sections 406, 420, 109 and 120B of the Indian Penal Code without any basis. There is no material to rope them in. Upon perusal of materials collected in course of investigation, I find that the petitioners allegedly intimidated the informant and his family members and refused to lend their ears towards the claim of the money the informant and other victims gave to the relatives of the petitioner to bag job in the army. But after investigation police did not find any material to saddle them with the liability for the committing offence within the meaning under Section 509 of the Indian Penal Code. There is some general and cryptic allegation made against the petitioners for being hand in glove with other accused persons in duping the victims. When two views are possible, learned Trial Court could have invoked the provision of Section 227 of Code of Criminal Procedure.

The impugned order passed by the learned Additional Chief Judicial Magistrate, Kandi refusing to allow the prayer made by the accused petitioners seeking discharge from the case lacks reasoning and thus warrants interference from this Court.

Accordingly, the impugned order dated July 18, 2012 passed in connection with Salar P.S. Case No. 36 dated 04.8.2005 being G.R. Case No. 515 of 2005 is quashed as against these three petitioners. However this order will not preclude the learned Trial Court from invoking the provision of Section 319 of the Code of Criminal Procedure, if situation so demands, at an appropriate stage.

C.R.A.N. 5 of 2019 is also disposed of along with the revisional application being CRR 3219 of 2012.

Let a copy of this order be sent to the learned Additional Chief Judicial Magistrate, Kandi for information and necessary action.

(Siddhartha Roy Chowdhury, J.)