

21.12.2022
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SB
Ct. No.236

CRR 4429 of 2009
CRAN 1 of 2011
CRAN 2 of 2014

In the matter of : Swarup Roy Chowdhury

Mr. Kallol Mondal
Mr. Krishan Ray
Mr. Souvik Das
Mr. Samsheer Ansari ... for the petitioner

Ms. Faria Hossain
Ms. Baisali Basu ... for the State

In compliance with the direction dated 14.12.2022, Sri Bimal Kumar Pati, Officer-in-Charge of Bidhannagar (South) Police Station as on 6th December, 2007 is present before this Court.

Ms. Faria Hossain, learned counsel representing the State submits a report indicating the fact that the Sub-Inspector Ashutosh Mondal passed away. The report is taken on record.

The personal appearance of Mr. Bimal Kumar Pati is dispensed with.

Seeking quashment of the proceeding being G.R. Case 692 of 2007 now pending before the learned Additional Chief Judicial Magistrate, Bidhannagar, North 24 Parganas arising out of Bidhannagar (South) P.S. Case No. 163 of 2007 dated 06.12.2007, the petitioner has filed the petition under consideration.

Briefly stated that constable C/805 Sri Krishna Hari Mondal informed the I /C Bidhan Nagar (south) P.S. that while he was deputed as personal security officer of Anindita Sarbadhikari, on 05.12.2007 at about 1 PM being attracted by some noise he woke

up and found 3-4 persons within the house compound armed with knife, Bhojoli etc. They proceeded towards the informant, who brought out his service revolver. Having noticed him with firearm, the miscreants started fleeing. The informant however, could identify two persons namely, Shiba Prasad Roychowdhury and his son Swarup Roychowdhury. Shiba Prasad Roychowdhury went upstairs giving a bag to his son. Swarup and his associates exhibiting weapons, intimidated the informant hurled abusive language and fled away. While evacuating the miscreants declared that they had the intention to kill the informant and then Anindita Sarbadhikari. The local police station was informed over phone. Previously, Swarup intimidated and abused Anindita Sarbadhikari on 04.12.2007.

Upon receipt such information Bidhannagar (South) P.S. Case No. 163 of 2007 dated 06.12.2007 was registered under Sections 307/506 of Indian Penal Code.

Police took up investigation and submitted charge sheet showing the accused person Swarup as absconder. In course of investigation police examined the complainant then I / C Bidhannagar Police Station, Parimal Mirdha, caretaker of the house) and his wife Lipika Mirdha. Parimal and his wife who stated that Swarup Roy Chowdhury on 05.12.2007 at about 1-30 A.M. came in front of the house of the Anindita Sarbadhikari to kill him. When the said constable brought out his service revolver Swarup fled away.

It is submitted by Ms. Hossain, that trial has already been commenced and the report submitted by Ms. Hossain indicates

that even the evidence of the Investigating Officer has already been completed. But accused Swarup Roy Chowdhury, is still a proclaimed offender, he is absconding. This report appears to be self-contradictory in as much as charge sheet was filed against the Swarup Roychowdhury showing him absconder and the I / C Bidhannagar (South) P.S. in his report dated 21.9.2022 has stated that the evidence of I.O. has already been done while proclamation against the accused Swarup Roychowdhury is pending. This is an absurd proposition and a misleading statement. It appears that the officers associated with the Bidhannagar (South) P.S. do not have faith in truth. The proceeding even allowed to remain in force.

In my humble opinion it would amount to an abuse process of law if the proceeding is allowed to remain in force. This is a fit case to invoke the jurisdiction conferred under Section 482 of the Code of Criminal Procedure to quash the proceeding, which I accordingly do.

With the aforesaid observations, the criminal revision along with applications, are disposed of.

The copy of the order be sent down to the learned Trial Court for information and necessary action.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, upon completion of requisite formalities.

(Siddhartha Roy Chowdhury, J.)