

22.08.2022
Item No. 15
Ct. No.40
d.g.

CRR 4152 of 2012

**Debasis Das & Ors.
vs.
The State of West Bengal**

**Mr. Prabir Kumar Mitra,
Ms. Ariba Shahab.**

... for the petitioners

**Mr. Narayan Prasad Agarwala,
Mr. Pratick Bose.**

... for the State

Mr. Narayan Prasad Agarwala, along with Mr. Pratick Bose, learned Counsel, appear for the State. Their appointment may be regularized.

The instant application is filed under Section 482 of the Code of Criminal Procedure praying for quashing of the criminal proceeding as well as the order of taking cognizance of the offence dated 03.10.2012 of G.R. Case No. 238 of 2012 under Sections 273/328/326/308/120B of the Indian Penal Code read with Section 46A Bengal Excise Act, 1909, connected to Chandipur Police Station Case No. 20 of 2012 dated 29.02.2012.

Mr. Mitra, the learned Counsel appearing for the petitioners submitted that nowhere the present petitioners are connected with the alleged offence. The principal accused person/persons allegedly perpetrated the offence, are different, against whom there might have been

incriminating materials. Dearth of incriminating materials and absence of any nexus between the alleged offence and the present petitioners do not warrant continuation of prosecution and taking cognizance of the same against them.

According to Mr. Mitra, the prosecution pending before the Trial Court should be quashed.

Mr. Agarwala, the learned Counsel, appearing for the State produced the case diary and submitted that the names of the present petitioners surfaced from the statement of witnesses, recorded under Section 161 of the Code of Criminal Procedure.

According to Mr. Agarwala, there are prima facie incriminating materials against the petitioners which does not warrant quashing as prayed for.

I have heard the rival submissions and perused the case diary.

From the statement of witnesses and the seizure of incriminating materials, it appears that one Chandan Chakraborty and his wife Jhapu Chakraborty are the principal accused. Although the witnesses mentioned the name of the present petitioners but there is no statement connecting them to the commission of the alleged offence of poisoning. There is no seizure of any incriminating country liquor from their possession. There is no materials, prima

facie, connecting the present petitioners with the alleged offence.

Therefore, it is a fit case where jurisdiction under Section 482 can be exercised. Accordingly, G.R. Case No. 238 of 2012 under Sections 273/328/326/308/120B of the Indian Penal Code read with Section 46A Bengal Excise Act, 1909, pending in the Court of Chief Judicial Magistrate, Purba Medinipur stands quashed against the present petitioners only.

Let a copy of this order be immediately sent to the concerned Trial Court.

Accordingly, the instant revisional application stands disposed of.

Case diary be returned.

(Sugato Majumdar, J.)