

12.07.2023

Item No.10
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 497 of 2023

In the matter of : **Goutam Basu Biswas & Anr.** ... Petitioners.

Ms. Reshmi Ghosh,
Mr. Soumya Sankar Chini ... For the Petitioners.

Mr. S. G. Mukherjee, Ld. P.P.,
Mr. Imran Ali,
Ms. Debjani Sahu ... For the State.

Learned advocate appearing for the petitioners is directed to serve a copy of this revisional application upon Mr. Imran Ali, learned advocate, who ordinarily appears for the State. His appointment may be regularised by the concerned authorities.

Learned advocate for the petitioners submits that the petitioners are associated with the firm who are assigned with the job of collecting and disposing fly ash. To that effect, learned advocate has enclosed certain documents of private organisations.

The genesis of the case was in respect of alleged offences under Section 4D of the West Bengal Land Reforms Act, 1955 and under Sections 447/506/34 of the Indian Penal Code. The report under Section 173 of the Code of Criminal Procedure also reflects that there were notices issued, but there was no response from the side of the petitioners.

The learned advocate for the petitioners insisted on the factum that the petitioners are innocent and are associated with the business, but they had no intention for commission

of the alleged offences and the same has been initiated out of malafide and the investigating agency submitted charge-sheet.

However, learned advocate for the petitioners is unable to confirm this Court regarding the documents which have been placed and enclosed in the application under Section 482 of the Code of Criminal Procedure. Earlier an opportunity was granted to file supplementary affidavit enclosing documents under Section 207 of the Code of Criminal Procedure.

I have considered the stage of the case. Presently the process of Section 207 of the Code of Criminal Procedure has been completed. There are documents which are outside the ambit of Section 207 of the Code of Criminal Procedure particularly, with regard to the site for disposal of fly ash, while the petitioners' narration of facts relate to an engagement in official duty and business. The prosecution case, on the other hand, is an offence under Section 4D of the West Bengal Land Reforms Act. Be that as it may, the petitioners would be at liberty to canvass such points before the learned Magistrate at the stage of Section 239 of the Code of Criminal Procedure.

Learned Magistrate will take into account the points canvassed in the present revisional application, the documents relied upon by the petitioners, the documents collected by the investigating agency and thereafter dispose of the application under Section 239 of the Code of Criminal Procedure in accordance with law.

Needless to state that the learned Magistrate will independently arrive at its finding without being influenced by any observations made by this Court while disposing of the present revisional application.

With the aforesaid observations, the revisional application being CRR 497 of 2023 is disposed of.

Pending connected application, if any, is consequently disposed of.

All concerned 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.)