

D/L10
05.07.2023
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C.R.R.944 of 2023
With
CRAN 1 of 2023
With
CRAN 2 of 2023

In Re: An application under Sections 397 and 401 read with 482 of the
Code of Criminal Procedure, 1973;

Prosenjit Hari and others
Versus
The State of West Bengal and another

Mr. Kaustav Chatterjee.
...for the petitioners.

Mr. Rudradipta Nandy
Ms. Sonali Das.
...for the State.

Mr. Apalak Basu
Mr. Nazir Ahmed.
Ms. Sanghamitra Mridha.
...for the opposite party no.2.

Mr. Nandy, learned advocate appearing for the State has handed over the entire clone copies of two hard discs to the learned Advocate appearing for the parties, on a covering letter, which reflects the same was received from Director-in-Charge CS-DEEL/CID, West Bengal to the Officer-in-Charge Cyber Crime Police Station dated 4.07.2023.

The grievance of the petitioners was in respect of the said two clone copies having not been served upon them.

Having regard to the fact that there was an earlier direction of the Division Bench for framing the charges within three months, I find that the learned ACJM, Bidhannagar did not have

any other option except to frame the charges. On an earlier occasion, Mr. Nandy insisted that the documents were completely served. However this court insisted Mr. Nandy, learned Advocate to give another set and not to prolong the issue considering the gravity of the offence and the accused persons being in custody. Records reflect two of the accused persons preferred application under Section 239 of the Code of Criminal Procedure. Out of the three petitioners who preferred the application before this Court, petitioner no.2, Sachin Toshniwal preferred an application under Section 239 of the Code of Criminal Procedure for discharge. Learned Magistrate dismissed the said application and proceeded to frame the charges. No application under Section 239 of the Code of Criminal Procedure was preferred on behalf of the petitioner nos.1 and 3.

At this stage, when charge has already been framed and when another co-accused Gurjot Singh intends that the trial should proceed as all the accused persons are in custody, I am of the view that as the petitioners did not prefer any application under Section 239 of the Code of Criminal Procedure at the relevant stage and it is only after change of counsel such a decision has been taken, the petitioners will not be prejudiced if the examination of the witnesses commence.

Earlier this Court passed an interim order in respect of the proceedings pending before the learned ACJM, Bidhannagar as the clone copies of the hard discs were to be handed over. I am of the view that the proceedings should not be stalled any more.

State is directed to produce the CSW 1 on 10th July, 2023 for conducting the examination-in-chief.

Mr. Nandy submits that whatever documents have been relied upon by the prosecution, whole of the same has been handed over in the clone copies of the two hard discs. In case the accused persons are able to satisfy the court that there is deficiency in such submission it would be for the accused/petitioner to subjectively satisfy the trial court regarding the same after inspection of the hard discs.

The purpose of the present revisional application related to quashing of the proceedings. I am of the opinion in view of the allegations, foundations and the materials collected by the Investigating Agency at this stage without cross-examination of the witnesses it is not possible to ascertain regarding the truth, falsity of the versions of the prosecution witnesses or the materials collected so far by the Investigating Agency and to be relied upon by the prosecuting agency.

Needless to state that the charges in this case has serious international ramification as innocent citizens of Germany, Ireland, Australia, USA, UK, Canada and New Zealand have been defrauded.

No further adjournment should be granted to either of the parties. The special public prosecutor conducting the case would produce the materials, exhibits and documents to be relied upon through the witnesses who would be present on the date so fixed.

With the aforesaid observations, CRR 944 of 2023 is

disposed of.

In the midst of the order being dictated, learned counsel appearing for the petitioners repeatedly prayed for stay of the implementation of the order passed by this Court, the same is refused.

Pending 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 of all requisite formalities.

(Tirthankar Ghosh, J.)