

14.09.2023

Item No.31
Ct.No.34
dc.

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

C.R.R. 949 of 2023

In the matter of : **Anzen Exports Private Limited** ... Petitioner.

Mr. Sandipan Ganguly,
Mr. Anirban Dutta,
Mr. Dwip Raj Basu,
Mr. R. Saha ... For the Petitioner.

Mr. Sandip Kumar Bhattacharya,
Mr. Dipta Dipak Banerjee ... For the Opposite Party No.2.

The present revisional application has been preferred challenging the order dated 17.09.2022 passed by learned Chief Judge, City Sessions Court, Calcutta in Criminal Revision No. 81 of 2022.

Mr. Ganguly, learned senior advocate appearing for the petitioner submits that the manner in which the admitted evidence has been interfered with by the learned Chief Judge is not acceptable to law.

On the other hand, Mr. Bhattacharya, learned advocate appearing for the opposite party no.2 contends that the learned Chief Judge has appreciated the deficiencies and the manner in which the learned trial court has admitted the documents in evidence. Learned advocate also submits that after the same was noticed on behalf of the accused/defence, the same was brought to the notice of the court. Learned Magistrate refused the same and as such, the learned Chief Judge has authority to set aside the order and question regarding the documents which are already marked in evidence by the learned trial court.

Be that as it may, I have considered the submissions of both the parties and I find that the issue relates to documents being marked as exhibits on behalf of the complainant which in the revisional application were expunged and marked as 'X' for identification. The same is reflected from paragraph 35 of the judgement and order dated 17.09.2022 passed by the learned Chief Judge, City Sessions Court, Calcutta.

Having considered the settled proposition of law that at each and every stage particularly, with regard to the documents which have already been marked as exhibit, I hold that ordinarily revisional application should not be entertained to deter the smooth progress of the trial. In this case, it would have been in the fitness of the circumstances that the learned Chief Judge should have directed that the learned Magistrate/trial court to mark 'objected to' in respect of the documents which were already admitted in evidence as exhibits. Paragraph 35 of the said judgement is set out as follows :

“35. Considering all these, this Court finds that the letter dt. 23.02.2015 which has been marked as Ext.5 in Case no. CS/10323 of 2015, Ext.11 in Case no. CS/10481 of 2015 and in Case no. CS/10483 of 2015 and Ext.9 in Case no. CS/10314 of 2015 and Case no. CS/10311 of 2015 be expunged from the exhibit list and be marked as 'X' for identification until and unless the author of the said document proves the same.”

A part of the aforesaid paragraph “be expunged from the exhibit list and be marked as 'X' for identification until and unless the author of the said document proves the same”

is set aside. So far as the exhibit-5, exhibit-11 and exhibit-9 which have been referred to in the said paragraph in respect of each of the cases be deemed to be marked as 'objected to'.

The accused/defence would be entitled to challenge regarding the admissibility as well as the intrinsic value of such documents and as to whether the contents of the same were compatible with the oral evidences adduced by the prosecution would be open for consideration at the time of final arguments of the case.

With the aforesaid modifications, the revisional application being CRR 949 of 2023 is disposed of.

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

In view of the prayer advanced on behalf of both the parties, let one date be fixed for progress of the evidence in this case once in every 60 days, so that trial of the case can progress smoothly.

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.)