

02.03.2023
Ct. No.34
S/L No.30
KS

C.R.R. 986 of 2021
With
IA No. CRAN 1 of 2021

Asif Iqbal Halsana & Ors.
-Vs.-
The State of West Bengal & Anr.

Mr. Tapan Dutta Gupta
Mr. Ashim Ghoshal
..... For the Petitioners
Mr. Saibal Bapuli
Mr. Arijit Ganguly
Mr. Bibasan Bhattacharya
.....For the State

IA No. CRAN 1 of 2021

A copy of the revisional application be served upon Mr. Arijit Ganguly, learned advocate appearing on behalf of the State.

The revisional application was preferred alongwith an application being, IA No. CRAN 1 of 2021 wherein a prayer was advanced for condoning the delay of 419 days in respect of the order under challenge.

Having considered the contentions advanced in the application for condonation of delay, I am of the view that the reasons so assigned are just and sufficient. Accordingly, the delay as explained in the application is condoned.

Thus, IA No. CRAN 1 of 2021 is allowed.

C.R.R. 986 of 2021

The revisional application is thereafter taken up for hearing.

Mr. Dutta Gupta, learned advocate appearing for the petitioners draws the attention of this Court to the order dated 12.06.2017 passed in CRR 1791 of 2017 wherein a Co-ordinate Bench was pleased to observe that the uncontroverted allegations in the First Information Report do make out an offence and, as such, granted liberty to the petitioners to agitate such issue at the appropriate stage of the proceeding including the stage of framing of charges in accordance with law. Petitioners submit that accordingly the prayer for discharge was made before the learned Sessions Court. The order dated 01.02.2020 reflects that by the time petitioners prayed for discharge the learned Trial Court was pleased to frame charges against the present petitioners with a specific observation that the dying declaration of deceased implicated the accused persons. Learned advocate appearing for the petitioners submits that the opinion of the Hon'ble High Court was contrary to the observations made by the learned Trial Court and, as such, prays for setting aside the order passed by the learned Trial Court.

Mr. Ganguly, learned advocate appearing for the State opposes such contentions and submits that there is a specific observation made by the learned Trial Court and, as such, there is no scope for interference in respect of the order under challenge.

I have considered the submissions of the learned advocate appearing for the petitioners as well as the learned advocate appearing for the State and on an oral consideration of the facts as well as the stage of the case, I am of the view that as by the time the prayer for discharge

was advanced charge was already framed by the learned Trial Court on the basis of the available materials which included amongst others, the dying declaration implicating the present petitioners, there is no scope for interference in respect of the order so passed by the learned Trial Court.

Petitioners are directed to canvas the points in the revisional application at the stage of evidence by way of cross-examination and/or by producing relevant materials at the stage of defence evidence. No interference is called for at this stage in this revisional application.

Accordingly, C.R.R. 986 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

All parties are directed to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Tirthankar Ghosh, J.)