

04.04.2023

Item No.12
Ct.No.34
dc.

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

C.R.R. 1114 of 2021

**Ratan Kumar Roy
versus
The State of West Bengal**

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973.

Mr. Sekhar Basu, Sr. Adv.,
Mr. Soubhik Mitter,
Ms. Rajnandini Das ... For the Petitioner.

Md. Anwar Hossain,
Ms. Manisha Sharma ... For the State.

Case diary be returned to Mr. Anwar Hossain, learned advocate appearing for the State.

I have perused the case diary and I find that the Investigating Officer of the case applied to Block Development Officer, Habibpur Development Block, Malda for granting sanction to prosecute the present petitioner viz. Ratan Kumar Roy. Without such sanction being available, the Investigating Officer of the case submitted supplementary charge-sheet incorporating the name of the present petitioner on the following grounds :

“(a) That (1) Biswajit Adhikary S/O Sudam Adhikary of Parbotidanga, (2) Mithun Tirki S/O Suresh Tirki of Harishchandrapur Orawpara, (3) Ratan Kr. Roy S/O Atul Roy of Tilason, all PS-Habibpur, Dist.- Malda are State Govt. employee and serving under the disposal of BDO, Habibpur Dev. Block, Malda.

(b) That all the 03 (Three) persons are official involved in preparation of EPIC card of the accused persons Sataranjan Biswas S/O Lt. Nitya Gopal Biswas and Lalita Biswas W/O Sataranjan

Biswas both of Augbualia, PO- Khalpulua, PS- Sulikuba, Dist- Jhenaidah, Bangladesh as Indian by discharging their official duty.

(c) That it is evidently established that the above noted officials misused their official capacity in the preparation of forged documents to establish the BD nationals Sataranjan Biswas S/O- Lt. Nitya Gopal Biswas and Lalita Biswas W/O Sataranjan Biswas both of Augbualia, PO- Khalpulua, PS- Sulikuba, Dist- Jhenaidah, Bangladesh to be Indian nationals deliberately with some ulterior motive which is highly detrimental to the interest of Nations.

(d) That the investigation already established that Sataranjan Biswas S/O- Lt. Nitya Gopal Biswas and Lalita Biswas W/O Sataranjan Biswas both of Augbualia, PO- Khalpulua, PS- Sulikuba, Dist- Jhenaidah, Bangladesh are BD nationals and after further hearing BDO, Habibpur already cancelled the EPIC card by method of accepting Form-7 for deletion the name.”

Learned Magistrate by his order dated 29.07.2019 accepted the supplementary charge-sheet so submitted which for the first time incorporated the name of the present petitioner.

I have perused the supplementary charge-sheet and the purpose for incorporation of the present petitioner as accused in the present case. *Prima facie*, it reflects that the petitioner was implicated in connection with the instant case because he was discharging his official function. Consequently the protection under Section 197 of the Code of Criminal Procedure, so far as the petitioner and other government officers are concerned, are to be invoked, the same is required to be obtained before proceeding with the case. As the same has not been granted till date, the learned Chief Judicial Magistrate, Malda or any Judicial Officer within the jurisdiction of that court in seisin of the case arising out of

Habibpur Police Station Case No. 123 of 2019 dated 19.04.2019 will not proceed so far as the government officers who have been implicated in connection with this case. As such, the trial, for the time being, would be split up and the learned Magistrate would proceed against the accused Sataranjan Biswas, Lalita Biswas, Paresh Mandal and Manoj @ Subhankar Bhadra.

The Investigating Officer of the case is granted liberty to apply for such sanction with the District Magistrate, Malda. The District Magistrate, Malda would check the complicity of the petitioner and the report so filed before this Court by the Block Development Officer, Habibpur Development Block, Malda and apply his mind with the records of the case, test the involvement of the present petitioner so far as discharge of his official duty is concerned and thereafter apply his discretion towards sanction.

So far as the present petitioner's case is concerned, the same should be kept in abeyance till sanction is granted, as directed above.

With the aforesaid directions, the revisional application being CRR 1114 of 2021 is partly allowed.

The Investigating Officer of the case is present in Court. His further appearance before this Court is dispensed with.

All pending connected 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 with all requisite formalities.

(Tirthankar Ghosh, J.)