

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CRR 1532 of 2023

**Baldeo Das Damani and Another
Vs.
The State of West Bengal**

Mr. Avik Ghatak
Mr. Tamoghna Saha
Mr. Saibal Kumar Dasgupta
..for the petitioners

Item No. 24

Heard & Judgment on: 15.05.2023

Bibek Chaudhuri, J.

Whether an investigation in connection with an offence punishable under Section 3 of the West Bengal Gambling and Prize Competitions Act, 1957 by the police officer who conducted search, seizure and lodged FIR is biased or not is the issue raised by the petitioners in the instant revision. It is also submitted by the learned advocate for the petitioner that raid was conducted on the alleged date of occurrence under the leadership of one K. Sarkar, an officer of

Anti-Rowdy Section, Detective Department. The said K. Sarkar has not been cited as a witness. Not a single member of the force who accompanied the raid was made a witness. Only one witness is the complainant-cum-Investigating Officer-cum-registering authority of the case Mr. Rajib De and two other independent witnesses. The case was instituted in the year 2008. In the charge sheet it is stated that some laptops were seized and sent to Forensic Science Laboratory for examination and scientific report. Till date no such report is available. Even the seized mobile phones were not sent to decode the call details report. The case is pending since 2008 and as such long pendency itself is a ground for quashing the criminal case.

I have carefully gone through the orders passed by the trial Court. Needless to say that the incident took place in the year 2008. The accused persons were arrested and subsequently they were released on bail. Thereafter, on most of the occasions they or either of them have evaded appearance before the Court below for 15 years and the trial Court could not even frame charge due to the absence of the all the accused persons. It is held by the Hon'ble Supreme Court in catena of decisions that the complainant being the Investigating Officer is a disturbing feature which may affect the prosecution case but such observation starting from **Mega Singh versus State of Haryana (1996) Volume 11 SCC 709** is directed to be looked into

at the time of trial of the case. The petitioner is at liberty to mention all the issues during consideration of charge by filing an appropriate application.

The learned trial Judge is directed to fix G.R. Case No. 3468 of 2008 for consideration of charge within one month from the date of communication of this order.

Surety is directed to produce all the accused persons on the said date fixed. Since it is found from the certified copy of the order sheet that against some of the accused persons warrant of arrest is pending for a long time, the case record may be split up and in respect of the accused persons who are present the case may be proceeded with.

With the above observation, the instant revision is disposed of.

(Bibek Chaudhuri, J.)