

10.05. 2023
Item No.23
Ali
Ct. no. 551

CRR 1936 of 2018
with
IA No. CRAN 1 of 2019 (Old No. CRAN 1029 of 2019)

Anil Kumar Singh & Anr.
Vs.
The State of W. B. & Anr.

Mr. Souri Ghosal,
Mr. Pintu Karar.

.....for the petitioners.

Mr. Aniket Mitra

....for the WBSEDCL

Mr. Saibal Bapuli,
Mr. Arijit Ganguli,
Ms. Debjani Sahu,

.... for the State.

The instant criminal revisional application was filed against the order dated 13th September, 2017 passed by the learned Special Court, (Indian Electricity Act), Burdwan in connection with Raina Police Station Case No. 06 of 2014 dated 7th January, 2014 under Section 138(1)(b) of the Electricity Act, 2003.

The brief fact of the case is that the present petitioners are the erstwhile partners of a firm which was charged with that offence. It is the contention of learned advocate for the petitioners that the present petitioners were erstwhile partners of the said firm and prior to the date of the commission of offence they have resigned from the partnership business. They have no connection with the said business, namely, M/s. South Bengal Agro Products at Village Palason, Post Office Shyamsundar, Police Station Raina, District Burdwan. It is the further contention of the learned advocate for the petitioners that the present petitioners filed an application before the learned Special Judge, Burdwan from discharging them from the criminal proceeding.

Learned Special Judge, Burdwan on 13.09.2017 passed the impugned order and rejected the prayer of the petitioners on the ground that the documents filed by the present petitioners before the trial Judge are the Photostat copy and that cannot be considered at the time of hearing of the discharge application.

Learned advocate for the petitioners further submits that the original documents were not available at the time of hearing. Those documents could not be produced before the learned trial Court. He further submitted that if those documents can be considered the charge against the present petitioners would be baseless; so he prayed for discharge from the criminal proceeding.

Learned advocate for the petitioners further contended that the petitioners were not partners at the date of commission of offence of the said business so the offence against them cannot lie.

Learned advocate appearing on behalf of the opposite party No. 2 i.e. WBSEDCL submits that the impugned order passed by the learned Special Judge suffers no illegality. He further pointed out that a reasoned order was passed and all the points raised by the petitioners were considered by the learned Special Judge. He further pointed out that the impugned order being the reasoned order and speaking order cannot be set aside.

Learned advocate for the State submits that impugned order suffer no illegality or impropriety.

Heard the learned advocates and perused the materials on record. It appears to me that the learned advocate for the petitioners prayed for discharge on the sole ground that at the time of commission of offence they were not at all partners of the said business. One xerox copy of power of attorney was produced. On

perusal of the same, it appears to me that the present petitioners may have a good ground to proceed with this criminal revisional application, but it is the fact that in considering the propriety of the impugned order, this court has no scope to hold a mini trial by considering the documents of the present petitioners. If the present petitioners seek any relief, they can have the same by producing the documents at the time of appropriate stage of the trial.

I make it clear that the merit of the documents of present petitioners was not at all considered by this revisional court. All the merits of the documents as well as the submission of the learned advocate for the petitioners are kept open to be raised at the appropriate stage of trial for necessary consideration of the learned trial court according to law.

Considering the same the instant criminal revisional application is disposed of in view of the above observations.

Any order of stay passed by this Court during the continuation of the instant revisional application is also vacated.

All connected CRAN applications, if pending, are also disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)