

16.06.2023

Item No.11
Ct.No.34
dc.

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

C.R.R. 2139 of 2023

In the matter of : **Nur Islam Sk** ... Petitioner.

Mr. Rajendra Banerjee,
Mr. Debarshi Brahma ... For the Petitioner.

Mr. S. G. Mukherjee, Ld. P.P.,
Mr. Soumik Ganguli ... For the State.

Learned advocate appearing for the petitioner is directed to serve a copy of this revisional application upon Mr. Soumik Ganguli, learned advocate, who ordinarily appears for the State. His appointment may be regularised by the concerned authorities.

The subject-matter of challenge is order dated 28.04.2023 wherein 30 accused persons are already on bail. The grievance of the petitioner is that there was alteration of charges and when the examination of the investigating officer was in progress i.e. PW-23, an application was taken out on behalf of the accused persons that they intend to crossexamine PW-1 to PW-9. The learned trial court rejected such prayer on the ground that when the charges were altered at the relevant point of time the defence was granted opportunity for cross-examination of the said witnesses and at the relevant point of time, the learned lawyers representing the accused persons showed their unwillingness for recall of the said nine witnesses and thereafter from 2018 to 2019 trial progressed and such an application was taken out on

28.04.2023 when the investigating officer was being examined.

I have considered the order of the learned Additional Sessions Judge, Birbhum in connection with Sessions Case No. 14 of 2016 arising out of Murarai Police Station Case No. 51 of 2012 dated 04.03.2012. Having regard to the fact that the trial is for an offence under Section 302 of the Indian Penal Code and the same is continuing for more than 11 years, I am of the view that the delayed application for recall is a ploy of stretching the proceedings. There is no illegality in the order passed by the learned trial court.

Accordingly, the revisional application being CRR 2139 of 2023 is dismissed.

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

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.)