

D/L10
14.07.2023
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C.R.R.2539 of 2023

In Re: An application under Section 482 of the Code of Criminal Procedure, 1973;

Biplab Kumar Pal and another
Versus
The State of West Bengal and another

Mr. Rohit Das
Ms. Kishwar Rahman
Mr. S.B. Dasgupta
Ms. Sristi Roy.

...for the petitioners.

Mr. Saswata Gopal Mukherjee, Ld.P.P.
Mr. Imran Ali
Ms. Debjani Sahu.

...for the State.

Petitioners are directed to serve a copy of the revisional application upon Mr. Imran Ali, learned advocate, who ordinarily appears on behalf of the State. His appearance maybe regularised by the concerned authorities.

Learned advocate for the petitioners has challenged the continuance of the proceedings arising out of Mahishadal Police Station Case No.232 of 2022 dated August 7, 2022 wherein charge-sheet has been submitted under Sections 498A/406 of the Indian Penal Code.

The present petitioners are brother-in-law and sister-in-law, both of them are staying in a separate place and working independently at Public Sector Undertaking and Ph.D. Scholar respectively. They have no regular issues for interfering with the day-to-day life of the complainant or her husband and also in

respect of other family members who are staying at completely different places. The petitioners have only been implicated as they are relations of the husband. Learned advocate further submits that having regard to the generality of the allegations with which the criminal case has been foisted upon the petitioners, further continuance of the same would be an abuse of the process of law.

I have considered the statements under Section 161 of the Code of Criminal Procedure and I am of the opinion that as the petitioners have been named therein in aiding the other relations who physically assaulted the victim, I am of the view that no interference can be made at this stage.

So far as the documents which have been enclosed along with the application which would amidst in creating evidence that the petitioners were available at a different place and his/her office at a residence which is situated far away from the place of occurrence, the same may be produced at the appropriate stage of the trial to rebut the prosecution allegations. However, the petitioners have been able to make a case that they are staying at a far away place, as such, until and unless their physical presence is required during the proceedings or the trial cannot proceed without their physical appearance, learned trial court will not insist on the physical appearance of the petitioners, if they are represented regularly before the learned trial court through their learned advocate. An application under Section 205 of the Code of Criminal Procedure with usual undertaking including the factum that the evidence being recorded in their absence will not prejudice them

and they will not take up the issue before any learned appellate court should be specifically averred.

With the aforesaid observations, CRR 2539 of 2023 is disposed of.

Pending application, if any, is 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 of all requisite formalities.

(Tirthankar Ghosh, J.)