

09-10-2023
Subha
Item no. 52
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 3579 of 2023
with
CRAN 1 of 2023

Firoz and ors.
-versus-
State of West Bengal & Anr.

Mr. Md. Nauroz Rahber
Md. Jawwad
Mr. A. R. Pati
.....for the petitioners.

Mr. Imran Ali
Ms. Debjani Sahu
...for the State.

Petitioners are directed to serve a copy of the revisional application upon Ms. Debjani Sahu, learned advocate who ordinarily appears on behalf of the State. Her appointment may be regularized by the concerned Authorities in due course.

Learned advocate appearing for the petitioners submits that initially in course of investigation warrant of arrest was prayed for by the Investigating Officer on 13th March, 2023. Subsequently, on the next date i.e., 25th April, 2023, the prayer was advanced for issuance of proclamation by the same Investigating Officer and the learned trial court after recording that no execution return of warrant of arrest till date has been received from the police station, issued proclamation and attachment by the same order dated 25th April, 2023.

Having considered the factum that the subjective satisfaction which was recorded by the learned Magistrate was without any application of mind, I am inclined to interfere with the order of issuance of proclamation dated 25th April, 2023.

However, having regard to the factum that the case is under Section 302 of Indian Penal Code, a balance is required to be drawn between the process so issued and the gravity of the offence. Accordingly, the order issuing proclamation dated 25th April, 2023 is stayed till 20th November, 2023.

Petitioners would be at liberty to approach the appropriate forum for remedy available under the law. However, the warrant of arrest which has been issued would be still in force and the police authorities would be entitled to execute the same in accordance with law.

In case the petitioners are not available before the court on 20th November, 2023, the learned A.C.J.M, Uttar Dinajpur would be at liberty to revive the proclamation so issued on 25th April, 2023.

With the aforesaid observations, the present revisional application being CRR 3579 of 2023 is disposed of.

Pending applications, if any, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]

