

30.8.2023
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SB
Ct. No.3

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

CRR 222 of 2023

In the matter of : Sri Tapas Kumar Neogy & Anr.

Mr. Bapi Sarkar
Mr. Debanshu Modak ... for the petitioners

Mr. Aditi Shakar Chakraborty
Mr. Abhijit Sarkar ... for the State

Heard Mr. Bapi Sarkar, learned counsel appearing on behalf of
the petitioners.

This revisional application impeaches the Charge Sheet No. 20
of 2018 dated 28.2.2018 filed by Mateli Police Station Case No. 146 of
2017 corresponding to G.R. Case No. 4429 of 2017 under Section
11(C) of the West Bengal Fire Service Act, 1950.

It is argued by Mr. Sarkar, that provision of Section 11(C) of the
West Bengal Fire Service Act, is applicable only in case of high-rise.
The resort in question is a single storied building. Therefore, the
provision of Section 11(C) cannot be pressed into service and for that
reason alone the proceeding should be quashed.

True, it is the provision of Section 11(C) of the Act, cannot be
applicable in a case against a single storied building. But the provision
of 11(B) of the Act is squarely applicable subject to certain conditions. It
is rightly argued by Mr. Sarkar that in absence of any general or special
order from the local authority this provision cannot be pressed into
service. This is an arguable point for the purpose of trial.

In my humble opinion, this is not a fit case to invoke the provision of Section 482 of Code of Criminal Procedure.

However, the petitioner shall be at liberty to raise this point at the time of commencement of trial or even during trial.

Learned Trial Court is requested to consider this point and the prosecution shall be under obligation to produce the order required under Section 11(B) of the West Bengal Fire Service Act, 1950. Failure on the part of the prosecution to satisfy the requirement of 11(B) of the Act would enure the benefit of the accused person.

(Siddhartha Roy Chowdhury, J.)