

22-05-2024
Subha
Item no.08
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 1800 of 2024

Astami Bijali @ Astamibala Bijali and ors.

-versus-

State of West Bengal

Mr. Satadru Lahiri
Mr. Syed Wasim Faruque
Mr. Jyotirmoy Talukder
.... ..for the petitioner.

Mr. Debasish Roy, Id. PP
Mr. Anand Keshri
for the State.

So far as the petitioner nos. 2 and 3 namely, Dhiman Sarkar and Papiya Sarkar are concerned, proclamation and attachment was issued against them by the learned ACJM, Barasat in connection with Deganga P. S. Case No. 267 of 2023 dated 04-06-2023. The said proclamation was executed and attachment was prayed for on 21st August, 2023.

Learned advocate for the petitioners submitted that the statutory period of 30 days as has been prescribed under Sub-section (1) of Section 82 of the CrPC has not been complied with by the Investigating Authorities and the learned ACJM, Barasat endorsed the Investigating Authorities' prayer on a put up petition which was filed on 21st August, 2023 and subsequently issued the order of proclamation and attachment.

Having considered that the statutory period required under Sub-section (1) of Section 82 CrPC has not been complied with prior to the proclamation and attachment order being executed, I am of the view that the petitioners have been prejudiced by the act and actions so far as the procedural part and law is concerned which in fact create a substantive right.

In view of the aforesaid, I direct that the order of attachment dated 21st August, 2023 be set aside. So far as the order of proclamation is concerned which was issued on 07-08-2023, the same be kept in abeyance till 20th June, 2024.

Needless to state that the warrant of arrest which was earlier issued in course of the investigation of the case would continue and there is no bar for the Police Authorities to execute the same against the petitioners.

Petitioners would be at liberty to exhaust the available remedies under law within the aforesaid period of 20th June, 2024. The learned ACJM, Barasat will revive the order and will insist on proclamation being executed on and from 21st June, 2024. As the petitioner no.1 has been arrested by the Investigating Authorities/Police Authorities which was informed to this Court on 16-05-2023, the application in respect of the petitioner no. 1 namely, Astami Bijali @ Astamibala Bijali has not been pressed by the learned advocate for the petitioner and the interim protective order of proclamation and attachment is restricted to the petitioner nos. 2 and 3.

With the aforesaid observations, the revisional application being CRR 1800 of 2024 is disposed of.

Connected 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]

