

D/L 46
26.09.2024
Kausik
ct.no.35

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION**

CRA (SB) 108 of 2024

**Asim Ranjan Coomer and Ors.
Versus
State of West Bengal and Anr.**

Mr. Kallol Mondal
Mr. Sukumar Sarkar
Mr. Krishanu Roy
Mr. Souvik Das
Ms. Ritoprita Bose
Mr. Anamitra Banerjee

...for the appellants.

Mr. Arindam Sen
Mr. Saurav Basu

...for the private respondent.

Ms. Sreyashee Biswas
Ms. Sudeshna Das

...for the State.

Mr. Mondal learned advocate appearing for the appellants has challenged the order dated 15.03.2024 passed by the learned Additional Sessions Judge, 1st Court Hooghly and the Special Judge in Special Case No. 08/2023.

Learned advocate has advanced his submissions in the same spirit as was before the learned trial court.

Mr. Sen learned advocate appears on behalf of the respondent and opposes the contentions so advanced thereby supporting the findings of the Special Judge.

Ms. Biswas learned advocate appearing for the State has produced the case diary.

I have taken into account the order dated 15.03.2024 wherein the petitioners did not challenge the incident, so far as it related to the offences under Indian Penal Code is concerned but their contention was that the offences under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act), 1989 has not been made out.

In view of the case diary being handed over I have considered the statements under Section 161 and Section 164 of the Code of Criminal Procedure which are to be tested in course of the trial. Prima facie the issue so canvassed that the offence was not within public view/public place do not assume any importance in view of the alleged offence which has been disclosed by the complainant in her statement under Section 164 of the Code of Criminal Procedure. In such a case public view or public place has no

relevance where there are allegations of outraging the modesty of the alleged victim is concerned.

In view of the contentions advanced in the appeal which are question of facts I am of the opinion that the case should go for trial. Appellants would be at liberty to cross-examine the witnesses concerned for eliciting the truth in course of the trial. No interference is made at this stage. Trial court would proceed in accordance with law.

With the aforesaid observations CRA (SB) 108 of 2024 is disposed of.

Pending applications if any are consequently disposed of.

Case diary be returned to the learned advocate appearing for the State.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)