

CRR No. 2340 of 2024

**+
CRAN 1 of 2024**

In the matter of : Pramatha Nath Manna..... petitioner.

Mr. Ayan Bhattacharjee
Mr. Pawan Kr. Gupta
Ms. Sofia Nesar
Mr. Santanu Sett
Mr. Arpit Chaudhary ...for the petitioner.

Mr. Amajit De ...for the CBI.

Heard learned counsels for the parties.

The petitioner is aggrieved by the order passed by the learned Judge, Special (CBI), Court No.1, Calcutta on 25th April, 2024 in GR Case No.879 of 2014 turning down the prayer of the petitioner under Section 231(2) of the Code of Criminal Procedure.

By the application under Section 231(2), the petitioner has sought to cross-examine the witnesses falling under the witness category “Marketing Members/Agents” after their examination is completed. The witnesses under the said category are CSW Nos. 3, 4, 5, 9, 10, 11, 13, 14, 16, 18, 20, 21 and 23.

Learned counsel for the petitioner submits that if all these witnesses are not cross-examined at one go, the

defence case shall be disclosed and the petitioner shall be seriously prejudiced.

Per contra, learned counsel for the opposite party refers to the reply submitted by the authority and submits that further investigation is still continuing and the prosecution may not examine all the witnesses as referred to by the petitioner. The witnesses have also not been categorized as yet.

It appears that the learned Trial Court has relied upon a judgment of the Hon'ble Supreme Court in State of Kerala Vs. Rasheed reported in (2019) 13 SCC 297 in dismissing the prayer of the petitioner.

In the said judgment the Hon'ble Supreme Court has laid down certain factors to be considered in deciding an application under Section 231 (2) of the Code. One of such factors is as hereunder:-

“possibility that non-deferral would enable subsequent witnesses giving evidence on similar facts to tailor their testimony to circumvent the defence strategy.”

The said guideline is relevant in the present matter where all the witnesses proposed to be examined together by the defence/petitioner belong to the category “Marketing Members/Agents” and in all probability their evidence shall be in tune with each other.

Strangely, though the learned Trial Court has referred to the authority stated above, he has unfortunately not considered the same.

Learned counsel for the opposite party has stressed on the fact that the prosecution is at liberty to examine or not to examine the witnesses according to their choice. There is no quarrel with the said provision of law.

Upon consideration of material on record, this Court is of the view that since the witnesses proposed to be cross-examined by the petitioner belong to the same category “Marketing Members/Agents” and in all likelihood shall adduce evidence in the same line, the petitioner ought to be granted liberty to cross-examine all of them at one go after completion of their examination in chief, in the interest of justice. Needless to state that the prosecution shall be at liberty to refrain from examining any of the witnesses referred to by the petitioner.

In view of the above, the order impugned dated 25th April, 2024 passed by the learned Judge, Special (CBI), Court No.1, Calcutta in GR Case No.879 of 2014 is set aside.

The petition under Section 231(2) of the Code filed by the petitioner is allowed granting liberty to the petitioner to cross-examine CSW Nos. 3, 4, 5, 9, 10, 11, 13, 14, 16, 18, 20, 21 and 23 after their examination in chief is concluded.

The revisional application being CRR 2340 of 2024 is disposed of.

As a consequence, the application being CRAN 1 of 2024 is also disposed of.

Case Diary be returned.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)