

D/L 27
16.05.2025
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ct.no.35

**W.P.A.2669 of 2025
With
CAN 1 of 2025
With
CAN 2 of 2025**

**Chhufiyabeoya Khan & Anr.
Versus
State of West Bengal & Ors.**

Mr. Samim Ahammed
Mr. Arka Ranjan Bhattacharya
Mr. Enamul Islam
Mr. Asit Ikbai Baidya
Mr. Md. Nasirul Haque.
...for the petitioners.

Mr. Rajdeep Majumder
Mr. Bapin Baidya.
...for the applicant.

Mr. Swapan Banerjee
Ms. Sumita Shaw
Mr. Alok Banerjee.
...for the State-respondents.

In Re: CAN 1 of 2025.

Mr. Rajdeep Majumder, learned advocate,
appears on behalf of the applicant.

Since the applicant is facing trial in
connection with S.C. No.292 of 2023, I am of the view
that the application preferred by the applicant should
be allowed.

Accordingly, CAN 1 of 2025 is allowed.

In Re: CAN 2 of 2025.

The application which has been preferred is for recalling the order dated 10th February, 2025. According to the applicant, proper facts were not placed before this Court and the delay in the trial was because of the documents/ case diary not being handed over by one public prosecutor to another public prosecutor. Learned advocate submits that it was incumbent upon the petitioners to point out the same and address the delay which is attributed not because of fault of the accused persons.

Be that as it may, I have considered the order dated 10th February, 2025 and I find that the subject matter of grievance do not concern the accused persons particularly with regard to the appointment of the public prosecutor who would be conducting the case. The order was not only restricted to the submissions made by the petitioners but an application of the CID was pending to engage Ashim Kumar Dutta as the public prosecutor.

Having considered that the appointment of the public prosecutor is a prerogative of the State and the Court can only take into account if any of the parties are able to show circumstances of extraneous consideration.

Having regard to the fact that the earlier order restricted itself to the grievance expressed by the petitioners, the application of the CID, West Bengal for appointment of public prosecutor and the efforts to be taken by the trial court for expediting the progress of the trial, I am of the view that so far as the order for recalling is concerned, the same should not be entertained.

Accordingly, CAN 2 of 2025 is dismissed.

The earlier order passed by this Court be adhered to by the learned trial court.

Report submitted by the State be kept with the record.

Affidavit-in-opposition filed on behalf of the petitioners in connection with the applications be kept with the record.

Affidavit-in-reply filed on behalf of the applicant in connection with the applications be also kept with the record.

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

Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)