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CRR 5010 of 2024

**Shrabani Bera & Ors.
Vs.
The State of West Bengal & Anr.**

Mr. Amal Krishna Samanta
Mr. Arun Kumar Das ... for the petitioners

This is an application wherein the petitioners are aggrieved by the order dated 19.8.2024 by which, the court below rejected the petitioners' application under Section 227 of the Code of Criminal Procedure.

Learned counsel for the petitioners submits that the petitioners work in the State Bank of India but they are typically hired on a contractual basis as customer service provider. They used to facilitate bank services in rural and some urban areas through Kiosk but they do not have same status or benefits as regular public servants and as such, Section 409 of the IPC does not have any application against the present petitioners.

In such view of the matter, the petitioners made an application for discharging them from Section 409 of the IPC as nowhere it has been transpired in course of investigation that the petitioners are public servant or in any way entrusted with the public property or had committed any criminal breach of trust in respect of that property. However, the learned court below by the impugned order, rejected the petitioners' application under Section 227 of the Code with the observation that the prayer made by the petitioners is not maintainable at that stage as it is premature.

Having heard learned counsel for the petitioners, the instant application being CRR 5010 of 2024 is hereby disposed of with a direction upon the court below to fix a date for charge hearing, if it has not already been fixed. The petitioners herein will be at liberty to agitate all their points in support of their contention that Section 409 of IPC has got application in the present context along with their other grievances, if any, at the time of charge hearing and the court below after hearing both the parties, will dispose of their prayer in accordance with law without being influenced by any observations made herein.

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

(Dr. Ajoy Kumar Mukherjee, J.)