

Criminal Revision

Present: **The Hon'ble Justice Ashim Kumar Roy**

C.R.R. No. 750 of 2010

Judgment On: 07-04-2010.

Pankaj Kumar Mandal & Ors

versus

State of West Bengal & Anr

POINTS:

SUMMON-Accused always be given all necessary opportunity to prove their innocence- The Learned Court, whether erred in rejecting the petitioners' prayer for exhibiting the First Information Report and the charge-sheet submitted in connection with the said case-Indian Explosive Act Ss.3/4-Indian Penal Code,Ss.304/326/355/34-Code of Criminal Procedure, 1973 S.311

FACTS:

In course of Trial, the prosecution filed an application for summoning the scribe of the First Information Report for the purpose of proving his signature therein. At the same time, the defence also filed certified copies of the First Information Report and charge-sheet relating to a case which, according to the defence, started over the self-same incident. While the Learned Judge allowed the prayer of the prosecution, rejected the petitioners' prayer, hence this criminal revision.

HELD:

The accused must always be given all necessary opportunity to prove their innocence and there cannot be any valid or cogent reason for rejecting the petitioners' prayer for exhibiting the First Information Report and the charge-sheet which was recorded over the self-same incident. Para-5

For Petitioners : Mr. Sandipan Ganguly

For State: Mr. Tirthankar Ghosh

THE COURT:

1. The present petitioners have been facing their trial before the Learned Additional Sessions Judge, Jangipur of a charge under Sections 304/326/355/34 of the Indian Penal Code and Sections 3/4 of the Indian Explosive Act.

2. In course of trial just before the argument was commenced, the prosecution filed an application under Section 311 of the Code for summoning the scribe of the First Information Report for the purpose of proving his signature therein. At the same time, the defence also filed certified copies of the First Information Report and charge-sheet relating to a case which, according to the defence, started over the self-same incident. While the Learned Judge allowed the prayer of the prosecution, rejected the petitioners' prayer, hence this criminal revision.

3. Heard Mr. Sandipan Ganguly, learned advocate appearing for the petitioners as well as Mr. Tirthankar Ghosh, learned advocate appearing for the State. Perused the impugned order and other materials on record.

4. Mr. Sandipan Ganguly, the learned advocate appearing for the petitioners urged before this Court that over the incident of death of one person, viz., Dasharath Mandal, following explosion of bombs, the police started a suo motu First Information Report being Suti P.S. Case No. 128/91 dated 16.12.1991 under Sections 3/4 of the Indian Explosive Substance Act read with Section 201 of the Indian Penal Code and the same has finally ended in charge-sheet. In that case it was the

allegation that such bomb was exploded while the victim and others were engaged in manufacturing bombs. He further submitted following the self-same incident, the case at hand was started on the basis of a First Information Report lodged by the inmates of the said house on the allegation that the petitioners caused the death of the victim hurling bombs. He further submitted during the trial the defence intended to exhibit the First Information Report and the copy of the charge-sheet filed in connection with the said case suo motu started by the police, but the Learned Judge did not allow their prayer.

On the other hand, Mr. Ghosh, the learned advocate appearing for the State in his usual fairness submitted that there cannot be any impediment in exhibiting the certified copy of the First Information Report relating to Suti P.S. Case No. 128/91 dated 16.12.1991 under Sections 3/4 of the India Explosive Substance Act read with Section 201 of the Indian Penal Code as well as the copy of the charge-sheet.

5. Having heard the learned advocate of the petitioners, I am of the opinion that the accused must always be given all necessary opportunity to prove their innocence and there cannot be any valid or cogent reason for rejecting the petitioners' prayer for exhibiting the First Information Report and the charge-sheet which was recorded over the self-same incident.

6. Accordingly, I set aside the impugned order so far that relates; to rejection of the petitioners' prayer for exhibiting the First Information Report relating to Suti Police Station Case No. 128/91 and the charge-sheet submitted in connection with the said case. The Learned Trial Court is directed to allow the defence to exhibit the said documents in accordance with law.

7. Criminal Section is directed to deliver urgent Photostat certified copy of this Judgment to the parties, if applied for, as early as possible.

(Ashim Kumar Roy, J.)