

Criminal Appeal No. 09 of 2023

CNR-WBCS01-000048-2023

Present: Sri Sukumar Ray

J.O. CODE NO.WB00590

Chief Judge, City Sessions Court, Calcutta.

City Sessions Court, Calcutta

Order no. 29 dated 20.05.2025

Today is fixed for passing order in respect of the petition dated 01.08.2024 filed on behalf of the respondent no. 1.

Appellant/CBI files hazira through Ld. Counsel.

Haziras are filed on behalf of the respondent nos. 1 and 2/State.

The hearing of this case has arisen out of an application filed by O.P no. 1 on 01.08.2024.

By filing of this application the petitioner submits that the present application is bad in law and not tenable under the existing provisions of law and therefore, liable to be dismissed immediately.

Heard both sides.

Ld. Advocate for the O.P no. 1 submits that the provisions of section 378 (2) (a) of the Code of Criminal Procedure is not available to CBI without compliance of section 6 of Delhi Special Police Establishment Act, 1946 which has been made ceased from 16.11.2018 by the Government of West Bengal. He further submits that CBI has not obtained prior consent for submitting this memorandum of appeal. So, he prays for dismissal of the appeal.

Per Contra, Ld. Public Prosecutor representing the CBI submits that no permission/consent is required. He further submits that the present application is not maintainable.

I have carefully perused the Notification dated 16.11.2018.

On bare reading of the Notification dated 16.11.2018, it appears to me that the said Notification is not retrospective in operation. It is merely prospective in operation. It is settled position of law that appeal is the continuation of the lis. It is also admitted that the case was initiated on the basis of FIR dated 15.01.2009. It is equally admitted that in view of Notification dated 16.11.2018 the Government of West Bengal has withdrawn the consent accorded to the all members of Delhi Special Police Establishment vide G.O No 6845-PL/PE/2A-10/88 dated 02.08.1989 of Home Department, Government of West Bengal.

In view of the above, I am of the view that no permission is necessary to prefer an appeal against the order of acquittal.

Accordingly, the petition dated 01.08.2024 is thus disposed of in the **negative**.

Fixing **03.07.2025** for hearing of the instant appeal.

Both parties are directed to come ready on the next date fixed positively.

D & C by me

Sd/-

Chief Judge
City Sessions Court, Calcutta

Sd/-

Chief Judge
City Sessions Court, Calcutta