

SESSIONS CASE NO 128 OF 2013

CNR-WBCS01-000139-2013

**Present: Sri Siddhartha Kanjilal
Chief Judge, City Sessions Court, Calcutta
J.O. CODE NO.WB01057**

Order no 167 dated 28.03.2022

Today is fixed for brining order from the Hon'ble Apex Court as well as from the Hon'ble High Court, Calcutta by one Bharati Tamang, wife of deceased/victim, Madan Tamang.

To-day is also fixed for appearance of the 47 accused persons on Court bail before this Court.

Ld. Special P.P. is present and files hazira.

All the 47 accused persons namely **1. Subhash Tamang 2. Prashant Chhetri @ Yogen Rai 3. Asish Tamang 4. Sudesh Rai Majhi 5. Sunil Rai 6. Tilak Rai 7. Dipen Malay 08. Arun Moktan 09. Sanjay Tamang 10. Bhanu Rai 11. Kamal Singha 12. Dawa Sangey Sherpa 13. Suraj Singh 14. Amol Lama 15. Prabin Subba 16. Goutam Tamang 17. Ruden Sada Lepcha 18. Edwin Sanchabir Subba 19. Khagen Tamang 20. Ranjit Rai 21. Alok Kanta Mani Thulung @ Rai 22. Kesav Raj Pokhrel 23. Puran Thami 24. Kismat Chhettri 25. Dinesh Gurung @ Karate Kaila 26. Tenzing Khambache 27. Naresh Rai, 28. Nagendra Pradhan 29. Kesar Rai 30. Binoy Tamang 31. Col. Ramesh Aley 32. Dinesh Theeng 33. Asha Gurung 34. Sushma Rai 35. Sandhya Gurung 36. Urmila Rumba 37. Anita Lakhandri 38. Kabita Dahal 39. Babita Ganguly 40. Sona Sherpa 41. Roshan Giri, 42. Jiten Tamang, 43. Pradeep @ Bhupendra Pradhan, 44. Harka Bahadur Chettri, 45. Rabin Subba, 46. Pemba Tshering @ Ola and 47. Devendra Sharma** on court bail filed four separate petitions u/s 317 of Cr.P.C.

From the record it reveals that from Hon'ble Apex Court vide order dt. 16.08.2017 in connection with transfer petition (criminal) 238 of 2017 observed in para no. 5 :

"We accordingly direct the Ld. Trial Court to hold the trial in Sessions case no.128 of 2013 pending before the Court of Chief Judge-in-charge, City Sessions Court, Calcutta mainly by video conferencing for which facilities shall be duly set up in Calcutta and Darjeeling. If the learned Trial Judge is of the opinion that physical presence of a particular witness of accused is necessary before the Court at Calcutta, he shall make a specified order to that effect giving sufficient time to the person to appear before the Court."

If that be the so then, the accused persons are not required to appear before this Court at present unless and until this Court finds that the presence of any of the accused is required.

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So, the petition filed by the accused person u/s 317 Cr.P.C on different grounds are redundant as per the order of Hon'ble Apex Court. The accused persons could only take proper steps on the date fixed as per law.

Thus, the order passed by this Court being no. 166 dt. 28.01.2022 is partly modified as per the observations made above.

Hon'ble Apex Court in connection with Writ Petition(s) (Criminal) No(s). 159 of 2012 dt. 10.02.2020 observed "***the matter adjourned for four weeks.***"

The order has been passed by the Apex Court in the month of February, 2020 and since then, Bharati Tamang, wife of deceased/victim, Madan Tamang has not bothered to file any further order of the Hon'ble Apex Court regarding the stay of this proceeding.

Thus, Bharati Tamang, wife of deceased/victim, Madan Tamang is directed to produce subsequent orders of the Apex Court in connection with this case within the next date positively.

Accordingly, fix **31.05.2022** for brining order from the Hon'ble Apex Court.

Accused persons are directed to take steps positively on the date fixed.

D/C by me.

Sd/-

Chief Judge
City Sessions Court.
Calcutta.

Sd/-

Chief Judge
City Sessions Cour
Calcutta