

**SC/128 OF 2013**

**Order no. 87 dated 13.06.17.**

Today is fixed for appearance of the accused persons, further hearing on the point of consideration of charge and hearing of the discharge petitions.

Accused no.47 Harka Bahadur Chettri and accused no.48 Rabin Subba are present by filing hazira.

Accused no.1 Subhash Tamang, 2. Prashant Chhetri @ Yogen Rai, 3. Asish Tamang, 4. Sudesh Rai Majhi, 5. Sunil Rai, 6. Tilak Rai, 7. Dipen Malay, 8. Arun Moktan, 9. 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 @ Ruden Lepcha, 18. Edwin Sanchabir Subba @ Sanchabir Edwin Subba, 19. Khagen Tamang, 20. Ranjit Rai, 21. Alok Kanta Mani Thulung @ Rai, 22. Kasav 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. Devendra Sharma, 33. Dinesh Thing @ Dinesh Theeng, 34. Pemba Tshering @ Ola, 35. Bimal Gurung @ Daju, 36. Asha Gurung, 37. Sushma Rai, 38. Sandhya Gurung, 39. Urmila Rumba, 40. Anita Lakhandri, 41. Kabita Dahal @ Hingmang, 42. Babita Ganguly, 43. Sona Sherpa, 44. Roshan Giri, 45. Jiten Tamang, 46. Pradeep @ Bhupendra Pradhan are absent.

Ld. advocates for the above named accused persons filed two petitions u/s. 317 of Cr.P.C praying for permission to represent the accused persons by them.

Heard. Considered. The prayer is allowed.

Ld. Spl P.P is present.

Defacto-complainant is present by filing hazira through advocate.

At this stage ld. lawyer on behalf of the defacto-complainant, Smt Bharati Tamang W/o lt. Madan Tamang, deceased wife of this case has filed a prayer for an adjournment for a period of eight weeks on the ground that this court hails from Kurseong in the District of Darjeeling and shall not able to discharge justice considering the political situation of Darjeeling.

Ld. lawyer for the accused submits that this petitioner is the wife of the victim Madam Tamang who had appeared before the Hon'ble Supreme Court of

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**Contd(Order no. 87 dated 13.06.17).**

India by virtue of Writ Petition (Criminal) No.159 of 2012, on the basis of which the instant case was transferred to the instant court with certain directions. The petitioner's prayer for an adjournment may be allowed on the ground that the Hon'ble Supreme Court of India is already entertaining the petition for de novo investigation as well as cancellation of the anticipatory bail granted by the Hon'ble Calcutta High Court.

Ld. lawyer of CBI for the prosecution has submitted that the petitioner has no locus standi for adjournment and in view of the direction of the Hon'ble High Court, Calcutta to hold the trial on day to day basis the prayer should be rejected. Moreover, he also insisted that the instant petition is filed by the petitioner in collusion with the accused persons.

Heard. Considered. Perused the materials on record.

In view of the submission made by both sides and keeping in mind that the instant case is necessitated to be tried by this court by the orders of the Hon'ble Supreme Court of India passed in WP (Criminal) No.159 of 2012, it transpires that the petitioner in the instant case being the petitioner of the said matter before the Hon'ble Supreme Court of India has a right to be a party in the instant case.

In such circumstances when the petitioner has some apprehension regarding discharge of the justice by the present P.O the prayer for adjournment stands allowed.

In view of the direction of the Hon'ble Calcutta High Court two days had been fixed including this day. Hence record need not be put up on the following two days following adjournment passed today.

Ld. Spl P.P files one petition praying for supply of copy of the order.

Heard. Considered. The prayer is allowed.

As such fix 24.07.17 for appearance of the accused persons, consideration of charge and hearing of the discharge petitions.

Let a copy of the order be supplied to ld. Spl P.P as prayed for.

Dictated and corrected by me

Chief Judge  
City Sessions Court, Calcutta

Chief Judge  
City Sessions Court, Calcutta

