

SESSIONS CASE NO 128 OF 2013  
CNR-WBCS01-000139-2013  
Present: Shri Anindya Bannerjee  
(Chief Judge in-charge)  
Judge, Exclusive (POCSO) Court  
City Sessions Court, Calcutta  
J.O. CODE NO.WB00868

Order no.183 dated 15.05.2024

Ld. P.O. is on leave today.

Today is fixed for bringing updated order from the Hon'ble Supreme Court of India and bringing updated order, if any, of Hon'ble High Court, Calcutta in CRR No. 3685 of 2017.

Ld. Special P.P., Ld. Counsel for the De-facto Complainant and Ld. Special P.P. for C.B.I. are present.

Out of (47) Accused persons, (46) Accused persons namely 1. Subhash Tamang, 2.Prashant Chhetri @ Yogen Rai, 3.Asish Tamang, 4.Sudesh Rai Majhi, 5.Sunil 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, 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 48. Devendra Sharma on Court Bail are found absent on calls.

Three separate petitions have been filed for the all the above named accused persons save and except the accused persons 44) Harka Bahadur Chettri praying for allowing their Ld. Counsels to represent the Accused person u/s 317 of Cr. P.C. on the ground stated therein.

Heard all sides on the point of condoning absence of the accused person.

The prayers are considered and allowed.

All the Accused persons save and except the accused persons 44) Harka Bahadur Chettri are allowed to be represented through their Ld. Counsel u/s 317 Cr. P.C.

No step is taken on behalf of the accused person namely 44) Harka Bahadur Chettri.

None turns up on behalf of the accused person namely 44) Harka Bahadur Chettri.

In view of the above fact, Ld. Chief Metropolitan Magistrate, Calcutta is directed to instruct the respective surety (s) to ensure production of the accused person namely 44) Harka Bahadur Chettri on the next date fixed.

Ld. Counsel for the widow of the deceased filed one hazira along with a CIS copy of solemn order dated 10.05.2024 passed by the Hon'ble Supreme Court of India in WRIT PETITION (CRIMINAL) NO.159 OF 2012 and a CIS copy of order 02.05.2024 of Hon'ble High Court, Calcutta passed in CRR No. 3685 of 2017 with CRR 50 of 2018 through firisti.

Perused the order dated 10.05.2024 wherein the Hon'ble Supreme Court of India has been pleased to observe as follows:

*"The petitioner has filed I.A. being no.1738 of 2017 seeking various prayers inter alia prayer (e), which reads as under:-*

*“e) issue a direction to the Respondent no.2 who had intercepted the telephone calls of the Accused persons during and after the gruesome coldblooded murder of the petitioner’s husband Mr. Madan Tamang on 21.05.2010 and obtained the voice data record to produce the original hard disc containing the voice data record of the intercepted telephone calls obtained by the Intelligence Bureau, West Bengal;”*

*Since the charge sheet has already been filed and the charges have also been framed against the concerned accused on 17.08.2023 and the trial is about to start, we deem it proper to dispose of the present writ petition, with a liberty to the petitioner as well as to the CBI to file appropriate application before the Trial Court in respect of the prayer made by the petitioner in para (e) of the I.A. No.1738 of 2017 in the light of the counter affidavit filed by the CBI.*

*It is needless to say that the Trial Court shall proceed further with the Trial, as expeditiously as possible and in accordance with law.*

*Subject to the above, the Writ Petition is disposed of.*

*Pending applications, if any, also stand disposed of.”*

Perused the order dated 02.05.2024 wherein the Hon'ble High Court at Calcutta has been pleased to observe as follows”

*“Argument on behalf of the parties are concluded and made CAV.*

*Parties are at liberty to file written notes of argument within two weeks.”*

Ld. Special P.P. for C.B.I. also files a CIS copy of solemn order dated 10.05.2024 passed by the Hon'ble Supreme Court of India in WRIT PETITION (CRIMINAL) NO.159 OF 2012 and a CIS copy of order 02.05.2024 of Hon'ble High Court, Calcutta passed in CRR No. 3685 of 2017 with CRR 50 of 2018 through firisti.

Let the solemn orders of the Hon'ble Supreme Court of India and Hon'ble High Court, Calcutta be kept with the record.

Ld. Counsel for the widow of the deceased and Ld. Special P.P. verbally pray for time to file appropriate petition in terms of order dated dated 10.05.2024 passed by the Hon'ble Supreme Court of India in WRIT PETITION (CRIMINAL) NO.159 OF 2012.

Heard all sides.

In view of the order dated 02.05.2024 passed by Hon'ble High Court, Calcutta in CRR No. 3685 of 2017 and also in view of the verbal prayer of the Ld. Counsel for the widow of the deceased, the case is adjourned for the ends of justice.

On consent of both sides, fix **28.06.2024** for bringing updated order from the Hon'ble High Court, Calcutta in CRR No. 3685 of 2017 and production of the accused person namely 44) Harka Bahadur Chettri by the respective sureties.

To-date for taking steps by all the accused regarding their appearance.

Let a copy of this order be sent to the Ld. Chief Metropolitan Magistrate, Calcutta for information and necessary action.

D/C by me.

Sd./-

Chief Judge-in-charge  
City Sessions Court, Calcutta

Chief Judge- in-charge  
City Sessions Court, Calcutta

