

SESSIONS CASE NO 128 OF 2013
CNR-WBCS01-000139-2013
Present: Sri Soumendra Nath Das
Chief Judge, City Sessions Court, Calcutta
J.O. CODE NO.WB01132

Order no.185 dated 28.06.2024

Today is fixed 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.

Ld. Special P.P. for C.B.I. is 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.

No step is taken on behalf of the above named 46 accused persons.

None turns up on behalf of the above named 46 accused persons.

The accused person namely 44) Harka Bahadur Chettri is present in Court by filing hazira on his own behalf along with a photocopy of Aadhar Card.

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

Received one forwarding letter bearing Memo No.145/LAW/CID/2345 dated 24.05.2024 along with two copies of solemn orders dated 10.05.2024 passed by the Hon'ble Supreme Court of India in WRIT PETITION (CRIMINAL) NO.159 OF 2012 from the Deputy Inspector General of Police (Spl.), CID, West Bengal.

Perused the solemn 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.

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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 other copy of the solemn order dated 10.05.2024 passed in WRIT PETITION (CRIMINAL) NO.159 OF 2012 wherein the Hon'ble Supreme Court of India has been pleased to observe as follows:

“In terms of the signed order, the Writ Petition is disposed of.

Pending application (s), if any, also stand disposed of.”

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

The Inspector, CBI, SCB, Kolkata filed a petition through Ld. P.P./CBI/SCB/Kolkata along with a server copy of Judgment dated 13.06.2024 passed by the Hon'ble High Court at Calcutta in connection with C.R.R NO.3685 of 2017 with CRR 50 of 2018 and stated that Hon'ble Court vide its judgment dated 13.06.2024 disposed of C.R.R. No.50 of 2018 (CBI & Anr. Vs. Bimal Gurung @ Daju) with CRR No.3685 of 2017 (Bharati Tamang vs CBI and Anr.) directing that “The alleged portion of the impugned order passed by the learned Chief Judge, City Sessions Court through which he discharged Bimal Gurung from this case is hereby set aside. The charge of this case is required to be framed against Bimal Gurung with other accused persons. Learned Trial Judge is to proceed with this case according to the law and as per direction of Hon'ble Apex Court.

Ld. P.P. accordingly prayed for keeping server copy of the Hon'ble Court's order dated 13.06.2024 on Court's record with a further prayer for framing charges against the accused persons.

On behalf of the widow of the deceased, one CIS copy of judgment dated 13.06.2024 passed by the Hon'ble High Court at Calcutta in connection with CRR No.3685 of 2017 (Bharati Tamang vs CBI and Anr.) with C.R.R. No.50 of 2018 (CBI & Anr. Vs. Bimal Gurung @ Daju) has been filed through firisti.

Perused the server copy of solemn Judgment dated 13.06.2024 passed by the Hon'ble High Court at Calcutta in connection with C.R.R NO.3685 of 2017 with CRR 50 of 2018 wherein the Hon'ble Court has been pleased to observe inter alia as follows:

“Considering the entire materials I am of a view that the instant criminal revision got merit and they are required to be allowed.

The alleged portion of the impugned order passed by the learned Chief Judge, City Sessions Court through which he discharged Bimal Gurung from this case is hereby set aside. The charge of this case is required to be framed against Bimal Gurung with other accused persons. Learned Trial Judge is to proceed with this case according to the law and as per direction of Hon'ble Apex Court.

Both the CRRs are allowed and disposed of according to the above observations.

Connected applications if pending, are also disposed of.”

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Let the solemn Judgment 13.06.2024 of the Hon'ble High Court at Calcutta be kept with the record.

Today Ld. Lawyers did not attend the Court proceedings due to resolution taken by local Bar on account of death of a Ld. Lawyer.

Accordingly, the case is adjourned for the ends of justice.

In view of the Judgment dated 13.06.2024 passed by Hon'ble High Court, Calcutta in C.R.R NO.3685 of 2017 with CRR 50 of 2018, let the case be fixed for framing of charge.

Issue notice upon the accused person namely Bimal Gurung with a direction to appear before this Court on the next date fixed.

Office is to do the needful.

Fix **26.07.2024** for framing of charge.

To-date for taking steps by all the accused regarding their appearance
D/C by me.

Sd./-
Chief Judge
City Sessions Court, Calcutta

Chief Judge
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