

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.193 dated 20.09.2024

Today is fixed for appearance and framing of charge.

To-date is also fixed for bringing order from the Hon'ble Supreme Court of India.

Out of (48) Accused persons, (43) Accused persons namely 2.Prashant Chhetri @ Yogen Rai, 3.Asish Tamang, 4.Sudesh Rai Majhi, 5.Sunil Rai, 7.Dipen Malay, 08. Arun Moktan, 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, 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, 48. Devendra Sharma and Bimal Gurung on Court Bail are present in Court by filing respective hazira.

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

Ld. Counsels for the above named accused persons are present.

The I.O. of this case is present along with the C.D.

The accused persons namely 1. Subhash Tamang, 6. Tilak Rai, 09. Sanjay Tamang, 30. Binoy Tamang and 31. Col. Ramesh Aley on Court bail are found absent on calls.

A petition has been filed on behalf of the accused persons namely 09. Sanjay Tamang and 30. Binoy Tamang stating that these accused/petitioner could not appear before this Court due to their illness and also due to transport problem following heavy rains and therefore Ld. Counsel prays for condoning their absence with a further prayer for allowing their Ld. Counsels to represent the Accused persons u/s 317 of Cr. P.C. on the ground stated therein.

Another petition along with a copy of medical paper has been filed on behalf of the accused person no. 31. namely Col. Ramesh Aley stating that the accused person is 79 years old and is bed ridden and so the accused/petitioner could not attend Court today and he undertakes to appear before this Court on the next date of hearing and therefore the Ld. Counsel prays condoning his absence with a further prayer for an adjournment.

Heard all sides on the point of condoning absence of the accused persons namely 09. Sanjay Tamang, 30. Binoy Tamang and 31. Col. Ramesh Aley.

Having heard the submissions of all sides, the prayers for condoning absence of the accused persons namely 09. Sanjay Tamang, 30. Binoy Tamang and 31. Col. Ramesh Aley considered and allowed for the ends of justice with a direction upon the accused persons above named to remain present before this Court on the next date fixed positively i.d. necessary order will be passed in accordance with law.

The Accused persons namely 09. Sanjay Tamang and 30. Binoy Tamang are allowed to be represented through their Ld. Counsel u/s 317 Cr. P.C. today.

None turns up on behalf of the accused persons namely 1. Subhash Tamang and 6. Tilak Rai.

No step is taken on behalf of the accused persons namely 1. Subhash Tamang and 6. Tilak Rai.

On perusal of the case record it transpires that vide order no.186 dated 26.07.2024 passed by this Court Ld. Chief Metropolitan Magistrate, Calcutta was directed to issue notice upon the sureties to produce the accused person namely Subhash Tamang on 21.08.2024 and thereafter vide this Court's order no.188 dated 21.08.2024 Ld. Chief Metropolitan Magistrate, Calcutta was further directed to instruct the sureties to ensure production of the accused person namely 1. Subhash Tamang before this Court.

In view of the above fact, Ld. Chief Judicial Magistrate, Calcutta is further directed to instruct the respective surety/sureties to ensure production of the accused persons namely 1. Subhash Tamang and 6. Tilak Rai before this Court on the next date fixed positively i.d. necessary order will be passed in accordance with law.

The I.O. of this case is also directed to submit current status report in respect of the accused persons namely 1. Subhash Tamang and 6. Tilak Rai within the next date fixed positively.

Ld. Counsel for the accused person namely Bimal Gurung files a petition along with a server of copy of case details in connection with Diary No.30179/2024 with SLP (Crl.) Nos.9688-9689/2024 from the official web site of the Hon'ble Supreme Court of India stating that challenging the order dated 13.06.2024 passed by the Hon'ble High Court at Calcutta the accused/petitioner namely Bimal Gurung has preferred a special leave petition vide SLP (Crl.) nos.9688-9689 of 2024 before the Hon'ble Supreme Court of India and upon hearing of the same on 26.07.2024 the Hon'ble Supreme Court of India was pleased to admit the Special Leave petition and directed for issuance of notice and also keeping the matter returnable after 4 weeks and Dasti service was allowed in addition.

Ld. Counsel for the accused person namely Bimal Gurung further stated that after effecting "Dasti" service upon the respondents, the matter was mentioned for hearing on urgent basis on 12.09.2024 before the Registry and upon considering the urgency the matter was fixed for "motion hearing" on 30.09.2024 before the Hon'ble Division Bench comprising Hon'ble Justice Bela M. Trivedi and the Hon'ble Justice Satish Chandra Sharma and therefore Ld. Counsel prays for an adjournment today for enabling him to bring further order/orders from the Hon'ble Supreme Court of India.

Ld. Counsel for the C.B.I. submits that there is no stay order from the Hon'ble Supreme Court of India.

Ld. Counsel for the De-facto Complainant also submits that it is a long pending case and no stay order has yet been granted by the Hon'ble Supreme Court of India in this case and so there is no bar to framing of charge.

Having heard the submissions of all sides on the point of adjournment, considering the absence of some of the accused persons and also on consideration of the matter pending before the the Hon'ble Supreme Court of India, the case is adjourned today for the ends of justice with a direction upon all sides to come ready on the next date fixed and no adjournment will be allowed to the parties on the next date fixed.

Ld. Counsel for the accused person namely Bimal Gurung is directed to submit updated order of the Hon'ble Hon'ble Supreme Court of India, if any, on the next date fixed.

On consent of all sides, fix **12.11.2024** for appearance and framing of charge.

To-date i.e. on **12.11.2024** for bringing updated order from the Hon'ble Supreme Court of India, if any.

Puja vacation intervenes from 09.10.2024 to 04.11.2024.

To-date i.e. on **12.11.2024** for production of the accused persons namely 1. Subhash Tamang and 6. Tilak Rai by the respective sureties positively i.d. necessary order.

To-date i.e. on **12.11.2024** for submission of current status report about the present position of the accused persons namely 1. Subhash Tamang and 6. Tilak Rai by the I.O. of this case.

All the accused persons are directed to remain present on the next date fixed positively i.e. necessary order in accordance with law.

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

Let a copy of this order be sent to the I.O. of this case through the Ld. Special P.P. for information and necessary action.

D/C by me.

Sd./-

Chief Judge
City Sessions Court, Calcutta

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