

SESSIONS CASE NO 71 OF 2022
CNR-WBCS01-001195-2022
Present: Sri Soumendra Nath Das
Chief Judge, City Sessions Court, Calcutta
J.O. CODE NO.WB01132

Order no.40 dated 03.05.2024

Today is fixed for bringing further order of the Hon'ble Supreme Court of India, if any, and hearing on the point of Consideration of charge and production of the accused persons and submission of report by the I.O. of this case.

The Accused no.(A-1), Jayeeta Das @ Rumpa is produced before this Court from J.C. in virtual mode.

Received one report from the Superintendent of Alipore Women's Correctional Home communicated vide office letter no.1466/AB dated 02.05.2024 regarding non production of the Accused no.(A-1), Jayeeta Das @ Rumpa before this Court in physical mode.

As the Accused no.(A-1), Jayeeta Das @ Rumpa is produced before this Court from J.C. in virtual mode, let the same be kept with the record.

The Accused no.(A-1), Jayeeta Das @ Rumpa is identified by the Jail Authority and she expressed that she could see and hear the entire court proceedings without any technical glitch.

The Accused no.(A-2) Pratick Bhowmik @ Kanchan who is on Court Bail in this case is produced before this Court from the J.C.

One fresh Vakalatnama has been filed on behalf of the accused person no.(A-1), Jayeeta Das @ Rumpa.

Ld. Counsels for the accused persons and the Ld. Special P. Ps. are present today.

Ld. Special P.P. files a petition along with a solemn Judgment dated 18.04.2024 passed by the Hon'ble Supreme Court of India passed in SLP (Crl.) No(s).7880 of 2023 stating that the Hon'ble Supreme Court of India has been pleased to allow the appeal and therefore she prays for passing necessary order in compliance with the order of the Hon'ble Supreme Court of India.

Perused the solemn order dated 18.04.2024 passed by the Hon'ble Supreme Court of India wherein the Hon'ble Court has been pleased to observe as follows:

"Hence, the Chief Judge cum City Sessions Court had the jurisdiction to pass the order dated 7th April, 2022. In view of the definition of the "Court" provided under Section 2 (1)(d) of UAPA, the jurisdictional Magistrate would also be clothed with the jurisdiction to deal with the remand of the accused albeit for a period of 90 days only because an express order of the Sessions Court or the Special Court, as the case may be, authorizing remand beyond such period would be required by virtue of Section 43D (2) of UAPA (reproduced supra).

Hence, to the extent the learned Chief Metropolitan Magistrate extended the remand of the accused beyond the period of 90 days, the proceedings were grossly illegal. Nonetheless, the fact remains that the charge sheet came to be filed beyond the period of 90 days and as a matter of fact, even beyond a period of 180 days, but the accused never claimed default bail on the ground that the charge sheet had not been filed within the extended period as per Section 43D of the UAPA. Hence, the only academic question left for the Court to examine in such circumstances would be the effect of evidence collected, if any, during this period of so called illegal remand, after 90 days had lapsed from the date of initial remand of the accused and the right of the accused to seek any other legal remedy against such illegal remand. Such issues would have to be raised in appropriate proceedings, i.e. before the trial court at the proper stage.

As a consequence of the above discussion, the impugned judgment dated 11th May, 2023 passed by learned Single Judge of the Calcutta High Court cannot be sustained and is hereby reversed and set aside.

The appeal is allowed accordingly.

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

Let the solemn order dated 18.04.2024 passed by the Hon'ble Supreme Court of India be kept with the record.

Heard both sides

Perused the case record.

Let the case be fixed for hearing on the point of consideration of charge.

A petition has been filed on behalf of the accused person stating that the Ld. Senior Counsel will not be able to remain present before this Court physically to conduct this case on the dates of hearing and therefore Ld. Counsel prays for allowing the Ld. Senior Counsel for the accused person to attend Court virtually to conduct the case.

Heard the Ld. Counsel for the accused persons.

This Court is of the view that there is no impediment to allow the Ld. Senior Counsel for the accused person to attend this Court virtually through video linkage to conduct the case.

Hence, Ld. Counsel for the accused person is at liberty to conduct this case virtually through video conferencing mode.

Ld. Counsel for the accused person is directed to furnish the email Id for conducting hearing virtually with this Court before commencement of hearing of this case on the date fixed and the hearing through video conference will be done strictly following the guidelines of the Rules of the Video Conferencing System for Courts as framed by the Hon'ble High Court at Calcutta **vide Notification No.3097-G dated the 16th December, 2021.**

The Superintendent of Alipore Women's Correctional Home is directed to ensure production of the Accused no.(A-1), Jayeeta Das @ Rumpa before this Court on the date fixed.

Fix **09.05.2024** for hearing on the point of Consideration of charge and production of the accused persons.

To-date i.e.**09.05.2024** for production of the Accused nos.(A-1), Jayeeta Das @ Rumpa and (A-2) Pratick Bhowmik @ Kanchan before this Court.

Let a copy of this order be sent to the Superintendent of Alipore Women's Correctional Home for information and necessary compliance.

D/C by me.

Sd./-

Chief Judge
City Sessions Court, Calcutta

Chief Judge
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