

**S.T Case No.124 of 2023**  
**CNR No. WBHW01-002499-2022**  
**Present : Sri Plaban Mukherjee ( J.O Code : WB01427 )**

Order No.22,  
Dated : 21.02.2024

Today, the date is fixed for production of the accused persons and consideration of charge.

All ten male accused persons, namely, Sudip Das, Abdul Razzaq, Md. Jakir Hossain, Md. Imran, Md. Kayum Bayati, Md. Ismail Sepai, Md. Khasrul Molla, Samrat Singh, Dhruba Sadhukhan and Abdush Samad Mondal @ Kausar and three female accused persons, namely, Salma Begum, Labani Begum, Sumaiya @ Sumaiya Khatun along with a lap baby are produced from correctional home and they are taken into custody and remanded to J.C till the next Date.

Ld. Advocates representing the accused persons are also present.

Ld. PP-in-Charge is present along with the C.D and opens the case for the prosecution.

Perused the case record and the C.D, including the charge sheet filed under section 173 of Cr.P.C, 1973.

At this stage, Ld. Advocate for the accused persons submitted that he had already filed a petition pleading guilt of the accused-petitioners, namely, Kayum Bayati, Md. Ismail and Md. Jakir Hossain, which he intends to not-press.

Heard both sides. Considered.

The Ld. Advocate is permitted to not-press the petition of pleading guilt in respect of the accused/petitioners, namely, Kayum Bayati, Md. Ismail and Md. Jakir Hossain by putting his endorsement on that petition.

Hence, the petition dated 17/05/2023 is hereby rejected being not-pressed.

Now, the case record is taken up for consideration of charge.

Ld. PP-in-Charge proposed to frame charge under section 370(5)/120B IPC and section 14C of the Foreigners Act against the accused persons, namely, Sudip Das, Samrat Singh, Dhruba Sadhukhan and Abdush Samad Mondal @ Kausar.

Now, considering the materials in the case record and the C.D, I am of the view that there is prima facie materials to presume that the accused persons, namely, Sudip Das, Samrat Singh, Dhruba Sadhukhan and Abdush Samad Mondal @ Kausar have committed an offence punishable under section 370(5)/120B of the IPC and section 14C of the Foreigners Act. Accordingly, charges under section 370(5)/120B IPC and section 14C of the Foreigners Act are framed against the above noted four accused persons in prescribed form on separate sheet, which is kept in the record.

The contents of the charge under section 370(5)/120B IPC and section 14C of the Foreigners Act, are read over and explained to the accused persons to which, each of them pleaded not guilty by saying 'Ami Nirdosh'.

Now, Ld. PP-in-Charge further proposed to frame charge under section 370(5)/120B of the IPC and section 14A(b) of the Foreigners Act against the accused petitioners, namely, Md. Khasrul Molla and Sumaiya @ Sumaiya Khatun.

Upon perusal of the charge sheet it appears that the Investigating Officer filed charge sheet under section 14 of Foreigners Act only against the above noted two accused persons, but considering the materials in the case record and

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the C.D and also relying on the principle laid down by the Hon'ble High Court at Calcutta in **C.R.R. 725 of 2014 vide judgment dated 21.08.2014 (Samirul Mondal @ Suman vs. State of W.B.) reported in 2014 (143) AIC 309**, I am of the view that there is prima facie materials to presume that the accused persons, namely, Md. Khasrul Molla and Sumaiya @ Sumaiya Khatun have committed an offence punishable under section 14A(b) of the Foreigners Act apart from section 370(5)/120B of the IPC. Accordingly, charges under section 370(5)/120B IPC and section 14A(b) of the Foreigners Act are framed against the above noted two accused persons in prescribed form on separate sheet, which is kept in the record.

The contents of the charge under section 370(5)/120B IPC and section 14A(b) of the Foreigners Act, are read over and explained to both the accused persons to which, each of them pleaded not guilty by saying 'Ami Nirdosh'.

At the time of reading out the charge, the name and particulars of the victim boy and the victim girl are read out to the accused persons, but their names and particulars have not mentioned in the Charge Form as the present case relates to an offence u/s 370(5) IPC. Hence, their names and particulars are kept in sealed envelope in the case record, for future reference.

Now, Ld. PP-in-Charge proposed to frame charge under section 14A(b) of the Foreigners Act only against the accused persons, namely, Salma Begum, Labani Begum, Md. Jakir Hossain, Md. Imran, Md. Kayum Bayati, Abdul Razzak and Md. Ismail Sepai.

Upon perusal of the charge sheet it appears that the Investigating Officer filed charge sheet only under section 14 of Foreigners Act against the above noted seven accused persons, but considering the materials in the case record and the C.D and also relying on the principle laid down by **the Hon'ble High Court at Calcutta in Samirul Mondal @ Suman vs. State of W.B. (supra.)**, I am of the view that there is prima facie materials to presume that the seven accused persons, namely, Salma Begum, Labani Begum, Md. Jakir Hossain, Md. Imran, Md. Kayum Bayati, Abdul Razzak and Md. Ismail Sepai have committed an offence punishable under section 14A(b) of the Foreigners Act. Accordingly, charge under section 14A(b) of the Foreigners Act are framed against the above noted seven accused persons in prescribed form on separate sheet, which is kept in the record.

The contents of the charge under section 14A(b) of the Foreigners Act, 1946 is read over and explained to the seven accused persons to which, each of them pleaded guilty by saying 'Ami Doshi'.

At this stage, Ld. Advocates representing the above noted seven accused persons also files separate seven petitions for each of the accused persons pleading guilt. Let the same be kept with the record.

Heard Ld. PP-in-charge on the point of pleading guilt of the accused persons, who raised No Objection against such pleading of guilt.

The Plea of the guilt by each of the accused persons appears to be voluntarily made and hence, the same is accepted.

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Hence, it is

**ORDERED**

that the seven accused persons, namely, Salma Begum, Labani Begum, Md. Jakir Hossain, Md. Imran, Md. Kayum Bayati, Abdul Razzak and Md. Ismail Sepai are convicted under section 229 of Cr.P.C for the offence punishable under section 14A(b) of the Foreigners Act.

The convicts are already in custody.

Considering the nature of the offence, I am not inclined to invoke the provisions of Probation of Offenders Act. Upon perusal of the provisions of Foreigners Act, it appears that section 14A(b) prescribes punishment for a term, which shall not be less than two years, but may extend to eight years and shall also be liable to fine, which shall not be less than Rs.10,000/-, but may extend to Rs.50,000/-. All the convicted persons are informed about the extent of punishment prescribed in section 14A(b) of the Foreigners Act.

Accordingly, the instant case is fixed for hearing on the point of sentence of the above noted seven accused persons at 4.00 pm today i.e. on 21/02/2024.

All the accused persons including the seven convicted persons be produced at 4.00 pm today i.e. on 21/02/2024 for hearing on the point of sentence.

Dictated & Corrected by me.

A.S.J, 1<sup>st</sup> Court, Howrah

Additional Sessions Judge,  
1<sup>st</sup> Court, Howrah.

Later (at 3.30 pm)

Dated : 21.02.2024

All the six accused persons, namely, Sudip Das, Samrat Singh, Dhruva Sadhukhan, Abdush Samad Mondal @ Kausar, Md. Khasrul Molla and Sumaiya @ Sumaiya Khatun and all the seven convicted persons, namely, Salma Begum, Labani Begum, Md. Jakir Hossain, Md. Imran, Md. Kayum Bayati, Abdul Razzak and Md. Ismail Sepai are produced from J.C and they are taken into custody.

Ld. PP-in-Charge is present with the C.D.

Ld. Advocates representing the accused persons are also present.

Now, the case record is taken up for hearing on the point of sentence.

Heard all sides on the point of sentence.

All the seven convicted persons conjointly pray for mercy with regard to the extent of punishment and submitted that they would not repeat such kind of act again in future and they also prayed for minimum punishment as they are very poor persons and entered within the territory of India in search of job from Bangladesh. The convicted persons further submitted that they are the sole bread earner for their family.

Hearing the submissions of all sides and the convicted persons, I am of the considered view that the minimum sentence prescribed in Section 14A(b) of the Foreigner Act would be sufficient as sentence in the present case.

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[Continuing Later Order dated 21/02/2024]

Hence, it is

**ORDERED**

that the seven convicted persons, namely, Salma Begum, Labani Begum, Md. Jakir Hossain, Md. Imran, Md. Kayum Bayati, Abdul Razzak and Md. Ismail Sepai are hereby sentenced to undergo Simple Imprisonment for two years each and each of them is also liable to pay a fine of Rs. 10,000/- (ten thousand only), in default of payment of which, the convicted persons shall have to undergo Simple Imprisonment for a period of three months more for the offence under section 14A(b) of the Foreigners Act.

It is further ordered that the period of detention, undergone by the each convicted persons during the period of investigation, inquiry and trial, shall be set off against the substantive sentence in terms of Section 428 of the Cr.P.C.

The convicted persons will be repatriated to Bangladesh territory after the expiry of the period of sentence.

District Magistrate, Howrah and the concerned authority are hereby directed to make necessary arrangement of repatriation of the said convicts, namely, Salma Begum, Labani Begum, Md. Jakir Hossain, Md. Imran, Md. Kayum Bayati, Abdul Razzak and Md. Ismail Sepai after the expiry of the period of sentence.

Issue Jail Warrants.

Issue fine slips.

Accordingly, the case with regard to the seven convicted persons, namely, Salma Begum, Labani Begum, Md. Jakir Hossain, Md. Imran, Md. Kayum Bayati, Abdul Razzak and Md. Ismail Sepai is disposed of and remained pending for trial in respect of the other accused persons.

Note in the relevant register.

Upload in the C.I.S.

Let a copy of this order be given to each of the convicts free of cost.

Let a copy of this order be sent to the Superintendent of Alipur Womens Correctional Home and to the Superintendent of Howrah District Correctional Home.

Let another copy of this order be sent to the District Magistrate, Howrah for information and compliance.

Fix 28/03/2024 for production of the six accused persons, namely, Sudip Das, Samrat Singh, Dhruva Sadhukhan, Abdush Samad Mondal @ Kausar, Md. Khasrul Molla and Sumaiya @ Sumaiya Khatun and evidence.

Dictated & Corrected by me.

A.S.J, 1<sup>st</sup> Court, Howrah

Additional Sessions Judge,  
1<sup>st</sup> Court, Howrah.