

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE
COURT – II, BONGAON, NORTH 24 – PARGANAS**

Sessions Case No. 81 of 2020

(CNR No – WBNP06-001480 – 2020)

GR – 405 of 2004

(State of West Bengal – Vs – Buddhishwar Das @ Budi & Ramprasad Saha)

Ref :- Gaighata P.S Case No. 104 dt. - 16.04.2004

U/s – 395/412/413 of IPC

Present : Sri Pradip Kumar Adhikary (JO Code - WB00916)

Order No – 18
Dt. 16.07.2024

Both the accused persons on Court Bail namely 1) **Ramprasad Saha** and 2) **Buddhishwar Das @ Budi** are found absent.

Ld. P.P In-Charge has not yet been appointed.

Out of Seven accused persons on Court Bail namely 1) **Ananda Biswas**, 2) **Biplab Biswas**, 3) **Goutam Tarafder**, 4) **Paritosh Mahalder**, 5) **Uttam Mondal** and 6) **Bidyut Biswas** are present by filling hazira while accused 7) **Moloy Biswas @ Dhola** is found absent without any step.

Ld. P.P in-charge **Sri Pradip Chatterjee** is found absent.

On 10/07/2024 at about 3-25 PM the Court received a copy of the resolution of Bongaon Lawyer's Association wherein it was "*resolved that the members of both the Bar Association, Bongaon shall refrain the themselves from attending the court of Sri P.K. Adhikary, the Ld. A.D.J.-II Bongaon until satisfactory assurance of Co-operation with the Ld. Advocates appearing before him to conduct cases on behalf of their clients from the ends of the Ld. Judge comes to hand.*"

This Court is "*requested not to take any coerssive step against the litigants for the interest of justice.*"

On the fateful day i.e. on 08/07/2024 in CNR No.- WBNP 0600 2538 2022 / SC No.- 378 of 2022 / ST No.- 08 (01) of 2023 arising out of Bagdah PS Case No.- 658 dated 26/08/2022 wherein charge was framed under sections 376(2)(c)/376D of the Indian Penal Code, 1860 the date was fixed for appearance of the accused on Court bail, production of the accused in judicial custody and evidence on behalf of the prosecution.

Out of two (02) accused one (01) accused Shioprasan Chero was on Court bail and he was absent without taking any steps.

In view of the resolution dated 29/06/2024 of both the local Bar Associations no adverse order was passed against the absentee accused.

Another accused Altaf Hussain was produced from judicial custody and he was remanded to judicial custody till next date.

The Ld. Spl. Public Prosecutor Shri Sandip Bhattacharya was absent without taking any steps.

No witness was turned up.

The Ld. Advocate Shri Sanjoy Das having vakalatnama on behalf of the accused Altaf Hussain informed the Court that the Ld. Spl. PP-in-Charge would not appear on that day and as such he prayed for fixing the date accordingly. He further conveyed that the dates may be fixed on 31/07/2024 and 01/08/2024 as the Spl. PP-in-Charge has some other cases at Bongaon Court on those dates and he would appear on those dates.

On the basis of submission of Ld. Advocate date was pronounced in open Court fixing it on 01/08/2024 for evidence.

Subsequently, a fresh vakalatnama was filed by the Ld. Advocate Shri Sagar Das on behalf of the accused Altaf Hussain.

The newly appointed Ld. Advocate on behalf of the accused Altaf Hussain also filed a bail application.

Notice of the application for bail was not given to the Ld. Spl. PP-in-Charge.

The accused was directed to serve copy of the bail application to the Ld. Spl. PP-in-Charge.

After pronouncement of service of copy of the bail application to the Ld. Spl. PP-in-Charge, Ld. Senior Advocate Shri Samir Das along with some other Ld. Advocates appeared and insisted the Court to pass order regarding bail application in absence of the Ld. Spl. PP-in-Charge.

Since the Court requested to serve copy of the bail application to the Ld. Spl. PP-in-Charge, the Ld. Advocates started to raise aspersion against the PO that the PO is favouring the Ld. Spl. PP-in-Charge.

The Ld. Advocates also raised some false allegations against the PO which are totally irrelevant with that case as well as those are totally baseless.

The Ld. Advocates further submitted that due to absence of the Ld. Spl. PP-in-Charge, date for evidence cannot be fixed and bail hearing cannot be deferred.

There is no doubt that due to negligence of Ld. Spl. PP-in-Charge the accused must not suffer.

At the same time in terms of provisions of section 437 CrPC the accused of that case shall not be released on bail without giving an opportunity of hearing to the Spl. PP-in-Charge.

In the above premises the case was adjourned for the ends of justice.

The Ld. Advocates were requested to ventilate all or any legitimate, legal and lawful grievance(s) / complaint(s) against the present Presiding Officer of this Court in writing so that the same can be addressed at expeditiously, effectively and properly and also that there can be no room for any confusion and misunderstanding and further that the proceeding of the Court may be continued without any hindrance, obstruction and impediment and no body is deprived of justice.

The grievance(s) / complaint(s) against the present Presiding Officer of this Court may also be forwarded / sent / placed before the appropriate authority in the prescribed manner for redress.

The Court also solicited active co-operation of the Bar in discharging of Court's duties, obligations and responsibilities, since the Bar is the mother of judiciary and Ld. Advocates belong to a respected intellectual class of the society and members of the noble profession as well as gentlemen and officers of the Court.

But whether raising shouting and slogans against the Presiding Officer is just, apt and reasonable ! The Court left

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the matter before the wisdom the Ld. Members of this Bar Association, one of oldest and reputed Bar Associations of West Bengal.

Since the date was already pronounced in open Court fixing it on 01/08/2024, the bail petition was also fixed on that date for hearing along with evidence.

The accused was directed to serve copy of the bail application to the Ld. Spl. PP-in-Charge in the meantime.

Copy of that order was sent to the Ld. Legal Remembrancer, Government of West Bengal, Judicial Department for information and necessary action, if any.

Some other consequential directions regarding evidence were also given.

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The allegations of “constant non co-operation”, “deep concern and dissatisfaction regarding manners of conducting” the Court “in arbitrary manner ignoring the legal and usual approaches of the Ld. Advocates”, “reluctantly not co-operating with the Ld. Advocates”, “several instances of non co-operation”, “wants to conduct the function of the court according to his own whim and the co-operation and assistance of the Advocates in proper functioning of the court are of no use to him” and “conduct of the Ld. Judge amounts to humiliation of the members of both the Bar Association” against the present Presiding Officer are totally false and baseless having no substance in it.

Moreover, neither any such allegations or instances against this Court have ever been ventilated before the Presiding Officer since joining here in this station on 14/06/2024 either by any President or by any Secretary or by any appropriate representatives of both the Bar Associations nor the same have even been brought to the notice of the Ld. Additional District & Sessions Judge, Bongaon being senior most Officer of this station.

The so called “tussles between the Bar and the Bench” as highlighted in the resolution is neither a rarest of rare case nor the dignity, integrity and independence of the Bar and/or the Bench are at stake. Even that be so *it will be for the Court to decide whether or not the issue involves dignity or integrity or independence of the Bar and/or the Bench.*

Moreover, prior to decide to refrain themselves from attending this Court the concerned Bar Associations neither sought for permission of the Hon’ble Chief Justice of the Hon’ble Court nor consulted the Ld. District Judge.

It is now settled law that lawyers have no right to strike i.e. to abstain from appearing in Court in cases in which they hold vakalat for the parties, even if it is in response to or in compliance with a decision of any association or body of lawyers. The boycotting of Court is a serious interference with the administration of justice. Every resolution to strike and abstain from work is per se contempt. Access to the judiciary and administration of justice being the pre-condition for existence and survival of the rule of law, the impugned action of the Bar Association which blocks such access to justice and paralyzes the administration of justice is against public interest and rule of law and can be termed nothing but wholly unreasonable. Lawyers have no right to go on strike or call for bandh or even a token strike. Abstention from work by lawyers is one of the prime reason for delay in disposal of cases. Such suspension of work or strikes is clearly illegal and it is high time that the legal fraternity realizes its duty to the society which is the foremost.

So, there is no iota of doubt that the above mentioned resolution not only runs counter to the directions passed by the Hon’ble Apex Court as well as our Hon’ble Court but also the same demonstrates willful, deliberate and contumacious violation of solemn mandates of the Hon’ble Apex Court as well as our Hon’ble Court.

However, in order to restore peace and harmony the case is adjourned for the ends of justice with a hope that “If winter comes, can spring be far behind?”

Fix **17.12.2024** appearance of the accused persons and appointment of Ld. P.P In-Charge.

D/c by me

A. S. J, Court – II
Bangaon, North 24 Parganas

Additional Sessions Judge, Court – II
Bangaon, North 24 Parganas