

23.03.2026
Court No. 29
D/L.
Item no.15
Rakib

CRR 1187 of 2026

Vishwambhar Saraf & Anr.
VS
The State of West Bengal & Anr.

Mr. Dipanjan Dutt
Mr. Manoj Kumar Tiwari
Mr. Sagnik Shaw

...for the Petitioners

The petitioners herein have prayed for quashing of the proceeding being Complaint Case No. C-4176 of 2009 under Section 406/420/120B of the Indian Penal Code. It is submitted on behalf of the petitioners that they had made a prayer before the trial Court under Section 255(1) of the Cr.P.C. seeking their discharge from the present case. However, learned Court below by the impugned order dated 2nd December, 2025 had turned down the prayer of the petitioners on the ground that the pre-condition under Section 244 of Cr.P.C. for considering such application has not yet been fulfilled, so the prayer is premature and thereby he rejected the same.

Learned counsel for the petitioner pointed out the order dated 4th September, 2015 wherefrom it appears that the evidence before charge of PW3 was closed on that day and the next date was fixed for consideration of charge. Therefore, he submitted that evidence before charge has been concluded but learned trial Court erroneously made the aforesaid observations and rejected the prayer made by the petitioners.

Having heard the learned counsel for the petitioners the application is admitted.

Petitioners are directed to serve a copy of application upon the Opposite Party no.2 through Speed Post intimating next date of hearing and to file affidavit-of-service on the returnable date.

Let the matter be listed on **23rd of April, 2026.**

Learned counsel for the petitioners also prays for interim relief.

Having heard the learned counsel for the petitioners, petitioners have made out an arguable case, let the impugned proceeding being Complaint Case No. C-4176 of 2009 presently pending before the learned Additional Chief Judicial Magistrate, Alipore, South 24 Parganas is hereby stayed for a period of twelve weeks or until further order whichever is earlier.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Dr. Ajoy Kumar Mukherjee, J.)