

CRR No. 3808 of 2024

+
CRAN 1 of 2024

In the matter of : Rasmita Acharya & Anr.

..... petitioners.

Mr. Antarikhya Basu
Mr. Anirban Dutta
Mr. Sayan Mukherjee

...for the petitioners.

Heard learned counsels for the parties.

The petitioners seek quashing of proceedings being GR Case No.489 of 2024 pending before the learned Additional Chief Judicial Magistrate, Barasat, 24 Parganas (North) primarily on the ground that no notice under Section 41A of the Code of Criminal Procedure has been issued upon them and the 2nd petitioner has been arrested in violation of the tenets of law.

Learned counsel for the petitioners refers to the forwarding report of the investigating officer submitted before the learned Magistrate which records that notice under Section 41A of the Code was sent to the accused petitioners several times through Shasan P.S. mail.

The petitioners deny and dispute the said contention of the investigating officer. Learned counsel also takes this Court to a notification issued by this Court being

No.8265 RG dated 23rd August, 2023 which demonstrates that notice of appearance in terms of Section 41A of the Code of Criminal Procedure be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the district for the reason to be recorded in writing.

Also, learned counsel places reliance on the authority in Lalita Kumari vs. Government of UP reported in (2014) 2 SCC 1 wherein the Hon'ble Supreme Court lays down the category of cases in which preliminary enquiry may be made which includes commercial offence and cases where there is an abnormal delay/laches in initiating the criminal prosecution.

Learned counsel submits that the present complaint has been lodged at a delay of six months after the alleged incident.

It appears from the material on record and submission made on behalf of the petitioners that the matter needs to be heard on merits.

The petitioners are directed to serve copy of the application along with annexure thereto upon the opposite parties and file affidavit of service on the adjourned date.

Let the matter appear under the heading "Contested Application" in the monthly list of November, 2024.

No coercive steps be taken against the 1st petitioner in connection with the present matter till 30th November, 2024 or until further orders, whichever is earlier.

The application being CRAN 1 of 2024 is disposed of.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)