

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

IA No. 75846/2023 IN SPECIAL LEAVE PETITION (CRIMINAL) DIARY NO.
10431/2023

ABUBAKKAR KHAN & ANR.

Petitioner(s)

VERSUS

THE STATE OF WEST BENGAL

Respondent(s)

(FOR ADMISSION and I.R. and IA No.75848/2023-EXEMPTION FROM FILING
O.T. and IA No.75846/2023-EXEMPTION FROM SURRENDERING WITHIN TIME)

Date : 28-04-2023 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
[IN CHAMBER]

For Petitioner(s) Mr. Samyak Jain, Adv.
Mr. Debayan Gangopadhyay, Adv.
Mr. Rajat Sehgal, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Heard learned counsel for the Petitioners.

2. It is submitted that the Petitioners have been wrongly convicted as there is absolutely no cogent material to record such conviction. It was submitted that the FIR was lodged by the defacto complainant being the wife of the deceased raising suspicion against her in-laws. However, after six months the police are said to have got a person to record his statement under Section 164 of the Code of Criminal Procedure, 1973 implicating the Petitioners solely on the ground that they had heard somebody talk on the telephone that the Petitioners had killed the deceased. It was

submitted that during the trial the said person was not examined and thus the Petitioners' basic right to cross examine him was taken away. Furthermore, it was submitted that there are absolutely no eye-witnesses and even the identification during the Test Identification Parade while in custody, was held after two days of the petitioners being shown to the witnesses and that is how they identified them and later on they were also identified in the Court, but unfortunately the Court has not gone into those aspects. It was pointed out that even during the pendency of the appeal before the High Court, they were on bail.

3. Having considered the matter, prayer made in the Interlocutory Application No. 75846/2023 i.e., exemption from surrendering is allowed.

4. Accordingly, the matter be listed before the regular Court.

(GINNY MEHTA)
SENIOR PERSONAL ASSISTANT

(MALEKAR NAGARAJ)
COURT MASTER (NSH)