

18.4.2022

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CRR 1450 of 2020

In Re : An application under Article 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973.

The State of West Bengal
With
Union of India & Anr.

Mr. Saswata Gopal Mukherji, Ld. P.P.,
Mrs. Sayanti Santra

... for the Petitioner/State.

Mr. Bhaskar Prasad Banerjee

... for the opposite parties/Union of India.

Mr. Mukherji, learned Public Prosecutor appearing for the petitioner/State submits N.I.A. did not consider it prudent to invoke the provisions of Section 6 of N.I.A. Act and investigation has substantially progressed in the matter. After a lapse of one year, N.I.A. had sought to transfer of the aforesaid investigation which has been satisfactorily conducted by Crime Investigation Department State of West Bengal. He prays for adjournment to enable learned Advocate General to make further submissions.

Mr. Banerjee, learned Advocate appearing for the N.I.A. submits investigation by N.I.A. in the matter is stalled due to interim direction of this Court. He prays the interim order be vacated/modified in the interest of justice.

We have considered the materials on record. Section 6 of the N.I.A. Act, inter alia, requires the State Agency upon receipt of information which is registered as First Information Report in respect of scheduled offence to submit a report to N.I.A., so that the said Agency may, having regard to the gravity of the offence and other relevant factors, take a decision whether to investigate the case or not. It appears no such report was submitted by the State Agency to N.I.A. in terms of Sub Section (2) of Section 6 of the Act. The State Agency continued investigation for more than a year. At that stage, N.I.A. suo muto exercised powers under Sub-Section (5) of Section 6 and transferred the investigations to itself.

A first blush impression of the scheme laid down in Section 6 of N.I.A. Act is that the Central Agency has precedence in the investigation of scheduled offence. A prima facie case for transfer of investigation in favour of N.I.A. has been made out. However, due to operation of the interim direction of this court, investigation by the Central Agency is stalled.

Furthermore, investigation by Central Agency, whose powers are much wider than the State Agency, would be more effective and enure to the ends of justice. Hence, balance of convenience also lies in favour of variation/vacating of the interim direction. In view of the aforesaid facts, we are inclined to vary the interim order passed earlier and direct subject to the result of the petition and without prejudice to rights and

contentions of the parties, investigation of the aforesaid case be transferred and conducted by N.I.A. State Agency is directed to cooperate with N.I.A. in that regard and if required to transfer all documents pertaining to its investigation to the Central Agency in accordance with law. However, the stay granted earlier shall operate with regard to the direction upon ADJ, CID to submit an explanation before the court below until further orders.

Let this matter appear on 10th May, 2022.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)