

03.04.2019

Rc
Item No.2

C.R.R. 1 of 2019

Mr. Debasish Mukherjee

.....For the petitioner

Mr. Saikat Chatterjee

.....For the State

The petitioner has assailed the order dated 06.08.2016 and 17.04.2018 passed by the learned Additional District Judge, Jalpaiguri in connection with Sessions Case No. 143/16 arising out of G.R.Case No. 1980 of 2013 arising out of Mal Police Station Case No. 147 of 2013 dated 09.04.2013 for alleged offence under Section 436/34 of the Indian Penal Code whereby warrant of arrest was issued against the petitioner.

It is submitted by Mr. Debasish Mukherjee, learned advocate for the petitioner that the petitioner be given one opportunity to surrender before the learned Trial Court by staying warrant of arrest. It would appear that the petitioner was on court bail and there was only one default on his part when he absented without taking any steps on 06.06.2016. So direction was given to the surety to produce the accused but compliance was not made by the surety so the case was deferred on 05.07.2016 and again direction was so given to the surety. On that day P.O. was on leave.

It would reveal that since surety failed to produce the accused warrant of arrest was issued against the petitioner but no step has been taken by the learned Judge against the surety by starting any miscellaneous case proceeding under Section 446 of the Code of Criminal Procedure. It further reveals from the order sheet that the warrant of arrest was not issued despite the order on two occasions and lastly it was issued on 02.11.2016. So the petitioner had ample opportunity to have surrendered prior to issuance of warrant of arrest. The warrant of arrest has not yet been executed and is kept in abeyance and is pending since long.

Now at this distant point of time when the learned Judge vide order dated 17.03.2018 observed that warrant of arrest is pending since a considerable period of time and the matter is being dragged for more than two years for execution of process of the court and when learned Court directed the Officer-in-Charge of the concerned Police Station and the Warrant Officer to be personally present on the next date to explain inaction for not having processed the process of the court, the petitioner woke up and has preferred this revisional application challenging the orders so passed by the learned Judge.

I do not find any illegality in the order impugned.

However, considering the materials on record and upon hearing Mr. Debasish Mukherjee, learned advocate for the petitioner and Mr. Saikat Chatterjee, learned advocate for the State, I am of the view that since there was only one default on

the part of the petitioner for not attending court an opportunity be given to the petitioner to appear and surrender before the learned Court within a period of two weeks from date hereof and the order of warrant of arrest be kept in abeyance for two weeks from date and in default in not surrendering before the Court the learned Court will be at liberty to get the warrant of arrest executed through the Officer-in-Charge of the concerned police station. If any bail application is filed and is entertained by the learned Judge, the learned Judge will be at liberty to consider the application in accordance with law and on the merits of the case.

With the above observations and directions this revisional application being CRR No. 01 of 2019 is disposed of.

Urgent photostat certified copy of this order be given to the parties, if applied for, on the usual undertakings.

(Shivakant Prasad, J.)