

09.03.2021
Ct. No. 32
Sdas
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C.R.R. No. 560 of 2021

In Re : An application under Section 482 of the Code of Criminal Procedure.

And

In Re : Nasiruddin @ Raju @ Lama petitioner

Mr. Chinmoy Pal
Mr. Kamal Krishna Guha
... for the petitioner

Mr. Goutam Dinder
Mr. A. S. Chatterjee
.... for the K.M.C.

Mr. Saibal Bapuli, learned A.P.P.
Mr. Arijit Ganguly
.... for the State

Affidavit-of-service filed on behalf of the petitioner is taken on record.

Although this is an application for quashing of the proceeding, learned Counsel appearing for the petitioner submits that the petitioner is not pressing for the same and is only seeking stay of the warrant of arrest issued against him.

Learned Counsel appearing on behalf of the petitioner submits as follows. The present proceeding is a second one against the petitioner in respect of the same alleged violations pertaining to the same premises in question. In the first proceeding being Case No. 936 of 2016, the petitioner was convicted and demolition of the unauthorised construction was ordered. On 16.01.2021 learned Magistrate recorded these submissions of the petitioner made in

the form of an application filed by the learned Counsel appearing on behalf of the petitioner on 04.11.2020 in the absence of the accused. On that particular date i.e. on 16.01.2021, all the accused including the present petitioner were absent. In view of the same, learned Magistrate was pleased to issue warrant of arrest against the petitioner and the other accused. The petitioner wants to join the proceeding at the earliest so that his prayer for discharge can be considered by the learned Magistrate.

Learned Counsels appearing on behalf of the State and Kolkata Municipal Corporation submit that the petitioner should be directed to surrender before the learned Magistrate at the earliest and in such event his application for bail shall be considered in accordance with law.

Learned Counsel for the Kolkata Municipal Corporation further submits that it could be a case that further illegal constructions came up in the said premises.

I have heard the submissions of the learned Counsels appearing on behalf the parties and have perused the revision petition.

The petitioner's contention that he was convicted for the same offence in an earlier case needs to be taken into consideration by the learned trial court. But, for that, the petitioner has to remain present before the learned trial court and attend the court regularly.

In view of the above and in the interest of justice, it is directed that the warrant of arrest issued against the petitioner

shall remain stayed for a period of four weeks from date. The petitioner shall surrender before the learned trial court within such time. In the event the petitioner surrenders within the said period of four weeks and pray for bail, his application shall be considered in accordance with law.

With these observations, the revisional application is disposed of.

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

(Jay Sengupta, J.)