

04.08.2021
Item no.13
Ct. No.34
CHC

C.R.R. No.1107 of 2012

(Via Video Conference)

In Re: An application under Section 401 of the Code of Criminal Procedure.

AND

In the matter of:-

Dharani Sarkar

... petitioner

Records of the case reflect that the learned Judicial Magistrate, 2nd Court, Malda, in connection with Manickchak Police Station Case No.92/03, dated 22.10.2003, under Sections 147/ 148/ 149/ 447/ 448/ 379/ 427/ 435/ 506 of the Indian Penal Code, after considering the evidence adduced on behalf of the prosecution was pleased to acquit all the accused persons from the case.

Being aggrieved by such order, the complainant preferred an appeal before the learned Sessions Judge, Malda. Learned Sessions Judge, Malda, by order dated 09.02.2011 was pleased to dismiss such appeal on the ground that complainant has no right of appeal and only remedy available to the complainant is of revision. The order so passed suffers from illegality in view of the amendment which has been incorporated in Section 372 of the

Code of Criminal Procedure and the amendment being effected from 31st of December, 2009.

Having regard to the reasons so assigned by the learned Sessions Judge, I am of the view that the same is not tenable in the eye of law. However, having regard to the totality of the circumstances, particularly, the case was initiated on or about October, 2003 and the petitioners were acquitted on 30th August, 2011, I do not think it would be fit and proper to reopen the issue of appeal at this belated stage after almost ten years.

Accordingly, the criminal revision being C.R.R.1107 of 2012 is disposed of with the aforesaid observations.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)