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Ct. 42

CRR 1069 of 2021

(Via Video Conference)

In the matter of:

Md. Younus and Ors.

Vs.

The State of West Bengal

Mr. Manas Kumar Das
...for the petitioners

Md. Anwar Hossain
Mr. Sanjib Kumar Das
...for the State

The impugned order dated 15th January, 2021 of learned Municipal Magistrate, 2nd Court, Calcutta in Registration No.86382 of 2015 issuing warrant of arrest is a subject of challenge in this revisional application.

At the very threshold of this case Mr. Manas Kumar Das, learned advocate for the petitioners appearing in virtual mode submits that the Appellate Court in connection with Criminal Appeal No.70 of 2019 of the learned Additional District and Sessions Judge, Fast Track, First Court, Bichar Bhavan, Calcutta confirmed the order of conviction passed by the learned Magistrate thereby modifying the sentence of five years rigorous imprisonment to TRC only with a fine of

Rs.50,000/- each, as per order of the learned Magistrate recording the order of conviction.

Learned advocate for the petitioner submits that the Appellate Court's direction in modification of the sentence could not be duly complied with by the petitioners, because of the onset Covid-19 and as a result thereof warrant of arrest has been issued against the petitioner.

Copy of the revisional application has not been served upon the State.

Mr. Anwar Hossain, learned advocate is present in Court, who ordinarily represents the State as a learned junior Government advocate for the State. A copy of the revisional application be immediately handed over to Mr. Hossain for proper address of the issue involved in this case. Upon perusal of the impugned order issuing warrant of arrest Mr. Hossain submits that the petitioner has flouted the direction of the Appellate Court and as such, case made out by the petitioner should not be considered showing some mercy taking a plea of Covid-19 situation.

It cannot be disputed that onset of Covid-19 and its consequent impact has largely disturbed the ordinary function of the Court. True it is that the petitioner ought to have showed his sincerest efforts to comply with the direction of the Appellate Court by paying the fine

amount of Rs.50,000/-. However, when the petitioners now want to surrender before the Court below for the purpose of depositing fine amount of Rs.50,000/-, the same should be allowed.

The revisional application is thus disposed of upon staying warrant of arrest issued against the petitioners for three (03) weeks subject to the condition that the petitioners shall surrender before the Court below within such stipulated period of time from hence, and upon surrendering the same, fine amount fixed by the Appellate Court may be permitted to deposit.

The Court makes it clarified that upon depositing such amount in terms of the direction of the Appellate Court, learned Court below shall be free to decide the case of the petitioners in accordance with the provisions of the law bearing in mind the direction of the Appellate Court.

(Subhasis Dasgupta, J.)