

22.01.2021

Item No.21

Ct.No.25

dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 2351 of 2019

**Shyamal Kumar Chanda alias Shyamal Chanda
versus
The State of West Bengal & Ors.**

In Re: An Application under Section 397/401/482 of the Code of Criminal Procedure, 1973 filed in connection with order dated 01.06.2019 passed by the learned Additional District Judge, 1st Court, Sealdah in Criminal Motion No. 28 of 2019.

Mr. Apalak Basu,
Mr. Nazir Ahmed

... For the Petitioner.

Affidavit-of-service filed be kept with the record.

The petitioner has challenged the order dated 01.06.2019 passed by the learned Additional District Judge, 1st Court, Sealdah wherein the learned court refused to condone the delay of 138 days under Section 5 of the Limitation Act and thereby closed all the remedies available before the criminal court to the petitioner who is aged about 75 years.

The learned revisional court while considering the application under Section 5 of the Limitation Act should have taken into account the background of the case wherein the petitioner's grievance related to a complaint which was dismissed for non-prosecution. Needless to state that the subject-matter of the case relates to allegation of forgery and the petitioner was without any remedy in an investigation so conducted. That being the scenario, the order dated

01.06.2019 passed by the learned Additional District Judge, 1st Court, Sealdah is set aside.

The learned sessions court would reconsider the application for condonation of delay afresh on merits of the case after serving proper notice to the respective parties.

The learned revisional court is directed to dispose of the revisional application within six months from the date of communication of this order.

With the aforesaid observations, CRR 2351 of 2019 is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with the necessary formalities.

(Tirthankar Ghosh, J.)