

IN THE HIGH COURT AT CALCUTTA

Criminal Revisional Jurisdiction

Before:

The Hon'ble Mr. Justice Ananda Kumar Mukherjee

C.R.R. 2537 of 2019

M/s. ESBI Transmissions Private Limited

Vs.

Rajesh Mishra

For the Petitioner : Mr. Vikash Singh

For the Opposite Party : Mr. Diprav Deb
Mr. Saurav Mondal
Mr. Debdatta Saha

Heard on: 14.12.2021

Judgement delivered on: 16.12.2021

Ananda Kumar Mukherjee, J. :-

1. This revisional application under Section 482 of the Cr.P.C., 1973 has been preferred by the petitioner, being aggrieved with the delay in hearing the Criminal Appeal No. 89 of 2015 pending before learned Chief Judge, City Sessions Court, Calcutta which has now been transferred to the learned Judge, Bench – 1, City Sessions Court, Calcutta for disposal, arising out of the judgment and order dated 31.8.2015 passed by the Metropolitan Magistrate, 3rd Court, Calcutta in Case No. C/ 23315 of 2008.

2. The fact in brief, which gave rise to this criminal revision is that being aggrieved and dissatisfied with the order and judgment dated 31.8.2008, passed by the learned Metropolitan Magistrate, 3rd Court, Calcutta, the

opposite party, Rajesh Mishra preferred an appeal before the Chief Judge, City Sessions Court, Calcutta, being Criminal Appeal No. 89 of 2015, which has been transferred to learned Judge, City Sessions Court, Bench – 1, Calcutta for hearing and disposal. According to the petitioner, the opposite party was convicted under Section 500 of the IPC and sentenced to pay a fine of Rs.10,000/- and also to undergo rigorous imprisonment for a period of one year with a further direction that 50% of the fine amount, if realized shall be given to the petitioner company as compensation and the remaining 50% shall be deposited with the Government Exchequer.

3. Be that as it may, the revisionist has urged before this Court that since admission of the appeal, pending before the City Sessions Court from 28.9.2015 the operation of the judgment has been stayed by the Appeal Court which frustrates the interest of the revisionist.

4. It is argued that there is no cause for not hearing the matter by the Court resulting in such inordinate delay in disposing the litigation in final form.

5. Learned advocate for the respondent/opposite party submitted that on the dates fixed for hearing of the appeal whenever learned advocate for the appellant prayed for adjournment, no objection was raised by learned advocate for the respondent due to which the prayer was allowed and hearing of the appeal has been delayed. So far as the prayer for expeditious hearing of the appeal is concerned, learned advocate for the respondent submitted that he has nothing to oppose.

6. I have considered the submissions made by learned advocates for both parties and perused the certified copy of orders passed by learned Chief Judge, City Sessions Court as well as Learned Bench – I, Kolkata in Criminal Appeal No.89 of 2015. The

available order-sheets till 05.08.2019 placed before this Court reveals that learned Judge made no endeavour to take up the appeal for hearing and granted adjournment on the prayer of the appellant and only extended the order staying the impugned judgment. If adjournments are granted in such liberal manner it would tantamount to violation of the rule of law and turn such procedure a chicanery. A judicial notice may be taken of the Pandemic situation due to Covid – 19 which started from March, 2020 and continued for a long period affecting work at public office at various levels. With the return of normalcy work has been restored in Courts to a great extent from November, 2021. It is obvious that there has been accumulation of work during this period but hearing of cases and appeals cannot be deferred in such manner for indefinite period on asking. The inordinate delay on the part of the concerned Court in not hearing out or disposing the criminal appeal over a period of long seven years results in abuse of the process of Court. Therefore, it is a fit case to invoke the jurisdiction under Section 482 of the Code of Criminal Procedure, 1973 and direct the Appellate Court to hear in Criminal Appeal without granting any further adjournment to the parties except under strong and pressing circumstances.

7. Under the facts and circumstances, the revisionist is absolutely justified in seeking expeditious hearing in disposal of the pending criminal appeal. Learned Judge, Bench – I (NDPS), City Sessions Court, Calcutta is directed to hear out the Criminal Appeal preferably within a period of three months from the date of communication of this order and dispose of the Criminal Appeal no.89 of 2015. The criminal revision under Section 482 of the Code of Criminal Procedure is allowed on contest. Interim order passed in this revision stand vacated.

8. Let a copy of this order be transmitted to Learned Judge, Bench – I (NDPS), City Sessions Court, Calcutta for information.

9. Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Ananda Kumar Mukherjee, J.)

SD/KS