

01.09.2021

Item No.2  
Ct.No.34  
dc.

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

**C.R.R. 3246 of 2018**  
**(Via Video Conference)**

**Bikash Beri alias Vikash Bery**  
**versus**  
**The State of West Bengal & Anr.**

**In Re:** An Application under Sections 397/401 read with Section 482 of the Code of Criminal Procedure, 1973.

Mr. Moyukh Mukherjee ... For the Petitioner.

Mr. Anindya Sundar Chatterjee,  
Mr. Goutam Dinda ... For the K.M.C.

Mr. Mukherjee, learned advocate appearing for the petitioner submits that the property has been attached which is an embargo for the petitioner to enjoy the property.

Learned advocate for the KMC is present.

On perusal of the relevant records, I find that the revisional application was preferred in the year 2018 and the judgment was delivered on 14.06.2019. By the said judgment, the learned Magistrate was pleased to convict the petitioner imposing a fine of Rs.2500/- in default to suffer simple imprisonment for one month for committing the offence punishable under Sections 392/610 of KMC Act and also sentenced to pay fine of Rs.1000/- for 1<sup>st</sup> day i.e. on 5.10.2016 and also Rs.90/- per day up to the date of demolition firstly on 10.1.2017 in default to suffer another ten days for committing the offence punishable under Section 618 of KMC Act and in that case both the sentences should run concurrently.

As the relevant application was pending and there was an interim order, according to the learned Magistrate, no order was passed in respect of attachment of the property in terms of Section 82(4) of the Code of Criminal Procedure along with the relevant provisions of the KMC Act. The learned Magistrate in the ordering portion of the said judgment has categorically recorded as follows :

*“Now, it is further observed by this Court that the case property was attached u/s 82(4) of Cr.P.C along with relevant provision of KMC Act and fact of such attachment has been noted in Assessment Register of KMC, but, at the same time further appears from the record that Hon’ble High Court Calcutta had been pleased to stay such order of attachment partially with a direction upon the accused person not to deal with such property till further order or till further leave of the Court, but, thus, in this case the convict shall be at liberty to take recourse under section 452 read with section 458 Cr.P.C by filing separate Misc case for disposing of the property subject to the final order of the Hon’ble Court if any in this respect in CRR No.3246 of 2018 with CRAN 371 of 2019.”*

Having regard to the observations made by the learned Magistrate, I am of the view that there is no justification in the pendency of the present revisional application as a separate Misc. case need to be filed for recalling of the attachment order so passed.

In view of the aforesaid, I direct that the petitioner will be at liberty to take out an application in consonance with relevant provisions of law for recalling of the said attachment

order and if such an application is filed before the learned Magistrate in terms of the order so passed by the concerned court, the learned Magistrate would dispose of the same within a period of four weeks from the date of filing of such application.

The learned Magistrate will independently pass the order without being influenced by any observations made by this Court.

The revisional application being CRR 3246 of 2018 is, thus, disposed of.

Interim order, if any, is hereby vacated.

All pending connected applications, if any, are consequently disposed of.

All parties including the learned Magistrate shall act on the server copy of this order duly downloaded from the official *website* of this Court.

**(Tirthankar Ghosh, J.)**