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NB
Ct. No. 39

CRR 4211 of 2017
(CRAN 2 of 2018 Old No. CRAN 1722 of 2018)
(CRAN 3 of 2018 Old No. CRAN 1826 of 2018)
(via video conference)

In the matter of:- M/s. Hajee A.P.Bava & Co. & Anr. ...petitioners

Mr. Mritunjoy Chatterjee,
Mr. Sanjib Das,
Mr. Balaram Pandit,
Mr. R. C. Prusti.

...for the petitioners.

Mr. Aasish Chowdhury,
Ms. Minal Palama,
Ms. Aindrila Basu

....for the OP No.2.

Affidavit of service furnished by the petitioners is taken on record.

Parties are represented by their learned advocates, names of whom are shown at the beginning of this order sheet.

At the threshold of this case, learned advocate for the petitioners surrender their prayer as regards quashment of the instant proceeding relatable to Complaint Case No.1827 of 2017 under Sections 420, 406 and 34 of the Indian Penal Code, pending before the learned Judicial Magistrate, 4th Court, Alipore, South 24-Parganas.

Upon surrendering the prayer for quashment, the learned advocate for the petitioners frankly submits that in this case, previously there was an interim order granted on 2nd January, 2018, by which the proceeding of the Court below was stayed for a period of eight weeks. Subsequently, the extension of interim order could not be obtained due to some laches on the part of petitioner No.2, and in consequence thereof, the Court below has proceeded to a considerable extent, and ultimately issued a warrant of arrest against the petitioner no.2 on 17th September, 2021. Since a warrant of arrest is pending against the petitioner no.2, it is

troubling the petitioner no. 2 at the moment. Learned advocate for the petitioners submits that a direction may be recorded directing stay of the execution of the warrant of arrest pending against the petitioner no.2 at least for a limited period of time thereby enabling the petitioner no.2 to surrender before the learned Court below.

Ms. Minal Palama, learned advocate representing the private opposite parties submits that the instant proceeding is relatable to the prayer for quashment, and it has no connection with the warrant of arrest issued against the petitioner no.2, which has been sought to be stayed taking the order of this Court.

It is further submitted by the learned advocate for the opposite party that for the deliberate laches, shown by the petitioners, the Court below issued warrant of arrest, which must go undisturbed.

The prayer for quashment has been relinquished voluntarily by the learned advocate for the petitioners. At this stage, the Court is not obliged to look into the merits of the quashment. Accordingly, all points are thus kept open and may be agitated before the learned Court below at the appropriate stage of hearing.

Since petitioner No.2 wants to offer himself to the course of law, interference to that extent is necessary.

Let the order dated 17th September, 2021 issuing warrant of arrest, by learned Judicial Magistrate 4th Court, Alipore in complaint case No. 1827 of 2017, against the petitioner no.2 be stayed for a period of eight weeks from hence subject to the condition that petitioner no.2 shall surrender before the learned Court below within such stipulated period of time, and if any bail petition is furnished upon surrendering, the same shall be disposed of providing sufficient opportunity of hearing to either of the parties to this case, in accordance with the provisions of the law. With the

abandonment of the prayer for quashment, the Court is of that view that there lies nothing to be adjudicated further at this moment.

With this direction/observation, the instant revisional application stands disposed of.

Petitioners are directed to make communication of this order to the learned Court below, within one week from hence, for necessary information.

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

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Subhasis Dasgupta, J.)