

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

CRR 265 of 2021
IA NO: CRAN 1 of 2021

Amar Karmakar.
Vs.
State of W.B.

For the Petitioner : Mr. Rana Mukherjee
Mr. Angshuman Chakraborty

For the State : Mr. Arijit Ganguly
: Ms. Sujata Das

Heard on : 18th January, 2022

Judgment on : 18th January, 2022

The Court:

This is an application challenging an order dated 04.02.2019 passed by the learned Chief Judicial Magistrate, Malda thereby issuing warrant of arrest, proclamation and attachment against the petitioner in connection with G.R. Case

No. 3957 of 2018 under Sections 304, 325 and 341 read with Section 34 of the Indian Penal Code.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is an accused in this case. A charge-sheet was submitted against him and showing him as an absconder. After that a warrant of arrest was issued. On 04.02.2019, upon the prayer of the investigating agency for issuance of warrant of proclamation and attachment, on the same date the learned Magistrate, Malda went on to issue warrant of arrest, proclamation and attachment against the accused. This is not tenable in law. On the first day, on which proclamation is issued, an order of attachment cannot be issued simultaneously. Besides, the petitioner wants to surrender before the learned trial Court at the earliest. As regards the delay of about 642 days in preferring this revision, the petitioner has mainly pleaded ignorance of law.

Learned counsel appearing on behalf of the State opposes the prayer for stay of warrant of arrest and submits that the warrant issued against the petitioner has remained pending for long. The petitioner did not care to surrender. Merely because an attachment was also issued along with the order of proclamation, the same cannot be interfered with after such a

long time. Moreover, no cogent explanation has been given to explain the delay in preferring the revision.

I have heard the submissions of the learned counsels appearing on behalf of the petitioner and the State and have perused the revision petition.

It appears that the warrant of arrest issued against the petitioner has remained pending for long. Thereafter, a proclamation and attachment was issued alongside the warrant of arrest. Technically there may be some defect in passing an order of proclamation and attachment together with on the same day for the first time. Even then, the order of proclamation would still remain.

Be that as it may, so far as the issue of delay of about 642 days in preferring the present revision is concerned, no satisfactory explanation has been provided in the application for condonation of delay filed under Section 5 of the Limitation Act. It is quite inconceivable that the petitioner would not be knowing about the issuance of warrant of arrest and the other coercive orders for so long. There is no justifiable ground whatsoever provided for explaining the delay of so many days in preferring the application for condonation of delay.

Therefore, the application preferred by the petitioner for condonation of delay under Section 5 of the Limitation Act is

dismissed and the revisional application also stands disposed of accordingly.

Urgent photostat certified copies of this judgment may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta,J.)