

28.04. 2022
item No.22
n.b.
ct. no. 34

CRR 175 of 2015
Md. Mustafa & Ors.
Vs.
The State of West Bengal

Mr. Aniket Mitra
Md. Kalam
.....for the Petitioners
Mr. Imran Ali,
Ms. Debjani Sahu
.....for the State
Mr. Goutam Dinda
Mr. Anindya Sundar Chatterjee
... for the K.M.C.

Mr. Mitra, learned advocate appears on behalf of the petitioners and submits that as the learned lawyer representing on behalf of the present petitioners who were appellants before the Learned Chief Judge, City Sessions Court, Calcutta did not take any steps, the appeal has been dismissed.

Mr. Dinda, learned advocate appears on behalf of the K.M.C Authorities and submits that the appellants were purposely evading the Court and the case was instituted in the year 2013 and more than nine years have elapsed without a final verdict from a Court of law. It is only the Municipal Magistrate who adjudicated the issue and come to a finding of guilt so far as the petitioners are concerned.

Mr. Ali, learned advocate appears on behalf of the State and submits that the order dated 25.11.2014 reflects that the Learned Chief Judge, City Sessions Court, Calcutta was frustrated

with the conduct of the appellants and as such dismissed the appeal.

It is a settled proposition of law that an appeal is to be disposed of on merits. An audience should also be granted to a person who has been convicted and sentenced. At the same time it is to be appreciated that after preferring an appeal and obtaining an interim order the appellant cannot evade the process of appearance before a Court of law.

Having considered the peculiar circumstances, I impose a cost of Rs.10,000/- upon the appellants to be paid before the Learned Trial Court. The receipt of the same may be produced before the Learned Appellate Court, the Learned Appellate Court will thereafter fix a date for hearing of the appeal and continue hearing of the same till its disposal.

Let the appeal be heard out on and from 15th June, 2022 and be completed by June 31st, 2022.

The order dated 25.11.2014 passed in Criminal Appeal No.88 of 2014 by the Learned Chief Judge, City Sessions Court, Calcutta is hereby set aside.

It is henceforth directed that in case no lawyer is appearing for the appellants, the Learned Chief Judge would engage a lawyer from the District Legal Aid Services Authority for representing the appellants and continue the hearing of the appeal. Appeals should always be disposed of on merits after hearing both the sides.

Accordingly, CRR 175 of 2015 is partly allowed.

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

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

(Tirthankar Ghosh, J.)