

06-06-2022
Subha
Item no.58
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 423 of 2021

In the matter of : **Rajkumar Sardar**petitioner.

In Re : An application under Section 482 of the Code of Criminal Procedure.

Mr. Ajoy Debnath
Mr. Debranjana Das
.....for the petitioner.

Mr. Anupam Kumar Bhattacharjee
Mr. Sujit Mitra
Mr. Mritunjoy Saha
....for the O. P. No.2.

The revisional application has been preferred challenging the order dated 06.01.2021 wherein the learned Additional Chief Judicial Magistrate, Diamond Harbour, South 24 Parganas in Complaint Case No. C-364 of 2020 was pleased to dismiss the complaint holding the same to be time barred.

According to the learned court, lockdown in the State of West Bengal was lifted from 7th October, 2020 and the petitioner filed the instant case on 19th December, 2020. The date on which the learned Magistrate passed the order was 6th January, 2021, may be the circumstances were different but subsequently also in the year 2021, the lockdown continued and the reasons so assigned as such cannot be considered to be absolute in the background of the pandemic prevailing in the country during the years 2020 and 2021. It would not be out of place to state that the priority of a court in a case must

be to test the same on merits and not on technical issues of limitation particularly with regard to the last two years when the normalcy in public as well as social life was lacking.

In view of the aforesaid, without strictly adhering to the technicalities of explaining the delay, the learned Magistrate is directed to take a judicial notice regarding the pandemic prevailing for the last two years, afford priority so far as the merits of the case is concerned and consider afresh the application filed by the petitioner in accordance with law.

Thus, the order dated 06.01.2021 passed by the learned Additional Chief Judicial Magistrate, Diamond Harbour, South 24 Parganas in Case No. C-364 of 2020 is hereby set aside. The learned Magistrate would freshly consider the application under Section 5 of the Limitation Act keeping in mind that there was a surge in Covid in the subsequent months of 2021 also.

Accordingly, the present revisional application being CRR 423 of 2021 is allowed.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

Interim order, if any, is hereby made absolute.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]

