

16.11.2022

Item No.20
Ct.No.34
dc.

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

**C.R.R. 1470 of 2021
with
CRAN 1 of 2021**

**Abbasuddin Sarder
versus
Rasida Mondal & Anr.**

Mr. Tusher Kanti Mukherjee ... For the Petitioner.

Md. Anwar Hossain,
Ms. Baisali Basu ... For the State.

Re: CRAN 1 of 2021
(an application under Section 5 of the Limitation Act)

Learned advocate appearing for the petitioner prays for condonation of delay of 23 days in preferring this revisional application.

The reasons so assigned in the application for condonation of delay are found to be just and sufficient. Accordingly, delay is condoned. The application being CRAN 1 of 2021 is, thus, allowed.

Re: CRR 1470 of 2021

The petitioner is aggrieved by the order passed in Canning Women Police Station Case No. 78(7)/2020 particularly, with regard to the order dated 25.03.2021 passed by learned A.C.J.M., Alipore.

I find from the records that the investigating authority on conclusion of investigation under Section 173 of the Code of Criminal Procedure filed their report with a prayer for

prosecuting the *de facto* complainant under Sections 182/211 of the Indian Penal Code for initiation of a false FIR under Sections 376(2)(m)/506 of the Indian Penal Code. The grievance of the petitioner is justified in view of the fact that the learned A.C.J.M., Alipore only accepted the FRT/Final Report and discharged the accused person without dealing with the prayer of the investigating agency for prosecuting the *de facto* complainant under Sections 182/211 of the Indian Penal Code. Accordingly, the order dated 25.03.2021 is set aside.

The learned A.C.J.M., Alipore is directed to apply his mind in respect of the prayer made by the investigating agency for prosecuting the *de facto* complainant who initiated a false case particularly, with regard to grievous charges under Sections 376(2)(m)/506 of the Indian Penal Code.

Let the records of the case be placed before the learned A.C.J.M., Alipore within a period of fortnight from date.

The petitioner is granted liberty to communicate this order to the learned A.C.J.M., Alipore.

In view of the impugned order being set aside, the revisional application being CRR 1470 of 2021 is 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.

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

(Tirthankar Ghosh, J.)