

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA  
Criminal Revisional Jurisdiction  
Appellate Side

Present:  
The Hon'ble Justice Jay Sengupta

CRR 2028 of 2021

Jyotirindra Narayan Ghosh  
Vs.  
State of West Bengal & Anr.

|                    |   |                                               |
|--------------------|---|-----------------------------------------------|
| For the Petitioner | : | Mr. Soumava Mukherjee<br>Mr. Soham Ray        |
| For the State      | : | Mr. Madhusudan Sur<br>Mr. Dipankar Paramanick |
| For the O.P. No. 2 | : | Mr. Satadru Lahiri<br>Mr. Safdar Azam         |
| Heard on           | : | 7 <sup>th</sup> February 2022                 |
| Judgment on :      | : | 7 <sup>th</sup> February 2022                 |

The Court:

This is an application seeking an expeditious disposal of a proceeding being G.R. Case No. 242 of 2010 presently pending before the Learned Additional Chief Judicial Magistrate, Bidhannagar, North 24 Parganas.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is an accused in this case. The F.I.R. was lodged in April 2010. After matrimonial disputes cropped up between the petitioner and the former wife / the de facto complainant in this case, a divorce had taken place. The petitioner used to

reside in the US. There was an application made for extradition of the petitioner and for revoking of his passport. The petitioner was not aware of the revocation of his passport in 2012 by the passport authority because in the meantime, this Court had granted stay over a proceeding praying for revocation. He applied for the passport afresh and had to come to India for such purpose. Due to a notification of the Ministry of External Affairs, Government of India, a passport could be granted to him, valid only for a year, as the present criminal case was pending. The matter is pending since long and in view of the same, an order may be passed by this Court expediting the trial. Out of sixteen prosecution witnesses, only one witness has been examined till date.

Learned counsel appearing on behalf of the O.P. No. 2 submits as follows. It is the petitioner who is substantially responsible for the delay in the proceeding since 2010. First, the mother-in-law and the petitioner prayed for quashing of the proceeding, which was pending since long. The proceeding was quashed in respect of the mother-in-law in 2015. Thereafter, the petitioner challenged the order refusing to quash the proceeding against him before the Hon'ble Apex Court. It took some time to be disposed of. Even at present, the petitioner has filed an application under Section 242(2) of the Code to delay the trial. The petitioner is not coming in clean hands so as to be granted the benefit of an expeditious disposal of the trial.

Learned counsel appearing on behalf of the State in his usual fairness, submits that the State would not come in the way if a direction would be passed to expedite the case, especially considering the fact that the matter is pending since 2010.

I have heard the submissions of the learned counsels for the parties and have perused the revision petition.

Prosecuting a legal right in a Court of law cannot amount to avoiding due process of law. If a litigant has a right under a particular provision of law he cannot be prevented from pursuing the same before a learned Court.

Be that as it may, from the above facts it appears that a considerable delay that has been occasioned in this case, especially considering the fact that the matter is pending since 2010.

It appears that only one witness has been examined-in-chief out of 16 witnesses.

In view of the above and in the interest of justice, the learned Trial Court is requested to conclude the trial as expeditiously as possible without granting any unnecessary adjournment to any of the parties, preferably within one year from the next date of hearing.

With these observations, the revisional application is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon completion of requisite formalities.

(JAY SENGUPTA,J )