

06.07.2022
Item No. 35
Ct. No.40
Ali.

CRR 3168 of 2011

Dr. Somnath Ghosh

vs.

Swati Bhattacharyya @ Ghosh & Another

Mr. Shibaji Kumar Das

Ms. Rupsa Sreemani

....for the petitioner.

Mr. Imran Ali,

Ms. Debjani Sahu

... for the State

Mr. Shibaji Kumar Das, learned Counsels appear on behalf of the petitioner.

Mr. Imran Ali, along with Ms. Debjani Sahu, learned Counsels appear on behalf of the State.

The instant application is filed under Article 227 of the Constitution of India praying for setting aside the impugned Order No. 5 dated 06.06.2011 passed by the learned Sessions Judge, Hooghly in Criminal Appeal No. 43 of 2010 dismissing the application filed by the present petitioner being the appellant therein under Section 5 of the Limitation Act, refusing thereby to condone delay.

The petitioner being the appellant in Criminal No. 43 of 2010 preferred the same. The Order was passed by the Additional Chief Judicial Magistrate, Chandannagore, Hooghly in G.R. No. 95 of 2008 under Sections 18 and 20 of Protection of Women from Domestic Violence Act, 2005. The Trial Court dismissed the application filed under Section 5 of the Limitation Act on the ground that the petitioner was

not present. Delay of 209 days was not condoned considering the explanation. Disposal of application filed for condonation of delay should not be made in haste. Court should not be enthused with disposal drive merely causing aberration of justice.

Let the impugned Order No. 5 dated 06.06.2011 be set aside. The Trial Court is to re-consider the issue of limitation and should pass reasoned order after hearing both the parties without giving any unnecessary adjournment to either of the parties.

The instant application, accordingly stands disposed of on merit.

Let a copy of this order be sent to the learned Trial Court forthwith.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Sugato Majumdar, J.)