

15.09.2022

Sl. No. 30

Srimanta

Ct.No. 42

IA No.:CRAN/1/2022

in

CRR/3266/2022

In the matter of : **Dr. Anirban Ganguly**

...petitioner.

Mr. Phiroze Edulji, Adv.,
Mr. Nikunj Barlia, Adv.,
Ms. Pallavi Priyadarsee , Adv.

...for the Petitioner.

Mr. Ranabir Roychowdhury, Adv.,
Mr. Mainak Gupta, Adv.

...for the State.

Affidavit-of-service filed in Court today be kept with the record.

It appears from the service report that the copy of the application under Section 5 of the Limitation Act has already been served upon the opposite party. However, the private opposite party has not turned up.

Mr. Ranabir Roychowdhury, Learned Public Prosecutor-in-Charge is requested to assist this Court on behalf of the State of West Bengal, opposite party no. 1 herein.

The application under Section 5 of the Limitation Act is taken up for hearing. I have heard the Learned Advocate for the petitioner and the Learned Public Prosecutor-in-Charge.

It is ascertained from the application that there was delay by 49 days in filing the revisional application. It is submitted on behalf of the petitioner that delay was caused due to the reason that the petitioner could not collect the requisite documents necessary for the disposal of the instant revision.

Having heard the Learned Advocate for the petitioner and on perusal of the averment made in the petition under Section 5 of the Limitation Act, this Court finds that the petitioner has been able to explain the delay sufficiently to the satisfaction of this Court.

Therefore, delay is condoned.

The application under Section 5 of the Limitation Act is accordingly allowed without cost. The revisional application be taken on file.

By filing the instant revision the petitioner has prayed for setting aside of an order dated 13th April, 2022 passed by the Learned Additional Chief Judicial Magistrate, Bolpur thereby issuing a fresh warrant of arrest against the petitioner in connection with Bolpur Police Station Case No. 132/2021 dated 21st April, 2021 under Sections 341/323/325/506/34 of the Indian Penal Code corresponding to GR Case No. 430/2021.

It is submitted by Mr. Edulji placing reliance on the decision of the Hon'ble Supreme Court in ***Satendra Kumar Antil -Vs.- Central Bureau of Investigation & Anr.*** reported in ***2021 SCC OnLine SC 615*** that in the instant case charge-sheet has been submitted against the petitioner under Sections 341/323/325/506/34 of the Indian Penal Code. The punishment prescribed for commission of the charge-sheeted offences are below seven years. Therefore, the charge-sheeted offence falls under category (a) of the judgment in ***Satendra Kumar Antil*** (Supra). In such case, the Learned Magistrate has no power to issue warrant of arrest directly on receipt of the charge-sheet.

Therefore, the order of issuance of warrant of arrest dated 13th April, 2022 be recalled. The petitioner is at liberty to take step in the Trial Court in accordance with the guideline

made by the Hon'ble Supreme Court in ***Satendra Kumar Antil*** (supra) reported in ***2021 SCC OnLine SC 615***.

The instant revision is, thus, **disposed of**.

The parties are at liberty to act on the server copy of the order.

(Bibek Chaudhuri, J.)