

02.05.2022

Item No.17
Ct.No.34
dc.

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

**C.R.R. 3054 of 2018
with
CRAN 1 of 2022
with
CRAN 2 of 2022**

**Faruk Ahmed Piada & Ors.
versus
Karima Bibi & Anr.**

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973.

Mr. Mujibar Ali Naskar,
Ms. Dona Akter ... For the Petitioners.

Mr. Ranabir Roy Chowdhury,
Mr. Sandip Chakraborty ... For the State.

Re: CRAN 2 of 2022
(an application for condonation of delay)

The application being CRAN 2 of 2022 has been preferred for condonation of delay in respect of the restoration application being CRAN 1 of 2022. There has been delay of 275 days in preferring the restoration application. The reasons so assigned in paragraph 5 of the application under Section 5 of the Limitation Act are found to be just and sufficient. As such, delay of 275 days in preferring the restoration application is condoned. The application being CRAN 2 of 2022 is, thus, allowed.

Re: CRAN 1 of 2022
(an application for Restoration)

The restoration application being CRAN 1 of 2022 is taken up. It has been submitted that the learned advocate for

the petitioners could not appear on the relevant date i.e. on 30.06.2021 as the learned lawyer was suffering from illness. In view of the fact that a litigant cannot suffer because of the fault of absence of the lawyer, I am of the opinion that this revisional application must be restored to its original file and number. Accordingly, the application being CRAN 1 of 2022 is allowed.

Re: CRR 3054 of 2018

This revisional application relates to Mandir Bazar Police Station Case No. 09/11 dated 22.01.2011 under Sections 498A/406 of the Indian Penal Code. Records reflect that the case was registered in the year 2011.

It has been submitted that on conclusion of investigation, charge-sheet was submitted before the jurisdictional court and on or about 31.08.2012, charge was framed against all the accused persons named in the charge-sheet and date was fixed for evidence on 03.02.2013. Since then, the evidence has commenced and is progressing.

Having regard to the change of circumstances particularly, the fact that recording of evidence has already started, I am of the opinion that at this belated stage, it would not be fit and proper to interfere regarding the proceedings and the prosecution must be allowed to place its evidence at this stage. However, the petitioners would be at liberty to canvass the issues taken up in this revisional application in course of cross-examination as well as at the stage of final arguments of the case.

As the case was initiated in the year 2011, the learned Magistrate is directed to adhere to the provisions of Section 309 of the Code of Criminal Procedure and at least try to fix one date for the purposes of this case in a fortnight so that the trial of the case can be taken to its logical conclusion within a reasonable period of time.

The revisional application being CRR 3054 of 2018 is, thus, disposed of.

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.)