

06.04.2022

Item No.9
Ct.No.34
dc.

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

C.R.R. 3064 of 2019

**Jayita Das @ Joyita Banerjee nee Das
versus
Keya Banerjee (nee Nag) & Anr.**

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973 read with Article 227 of the Constitution of India.

Mr. Pappu Adhikari ... For the Petitioner.

Mr. Abhra Mukherjee,
Mr. Sauradeep Dutta ... For the Opposite Party No.1.

Ms. Manasi Roy ... For the State.

The grievance of the petitioner is that the learned sessions court refused to condone the delay of 474 days and dismissed the appeal.

Learned advocate appearing for the petitioner submits that the petitioner intends to canvass the issues on merits before the learned appellate court, but because of wrong advice at the relevant period of time, the delay has been caused.

I find that the subject matter of grievance of the petitioner relates back to an order dated 30.11.2017 passed by learned Judicial Magistrate, 5th Court, Alipore. I find that the learned trial court directed payment towards compensation and damages to the tune of Rs.1,50,000/- for causing injuries (both mental and physical torture and emotional distress) by way of domestic violence within a

period of two months from the date of passing of the said order.

Learned advocate appearing for the petitioner submits that the petitioner is under financial stringency. However, she would comply any direction passed by this Court for expressing bonafideness.

Mr. Mukherjee, learned advocate appearing for the opposite party no.1 resists the submissions advanced on behalf of the petitioner. It is his specific submission that the petitioner has purposely adopted different strategies for non-payment and the opposite party no.1 has been thrown out of the residence. Additionally, it has been submitted that the opposite party no.1 has also preferred an appeal being Criminal Appeal No. 250 of 2017 which is pending before the learned sessions court and the said appeal is fixed for adjudication on 30.04.2022.

Considering the contentions advanced by the learned advocate for the petitioner and having regard to the fact that the appellate court will have to adjudicate on issues relating to the judgement being delivered by the learned Magistrate, I direct that in case the petitioner deposits a sum of Rs.50,000/- by 12.05.2022, the learned appellate court would admit the appeal by condoning the delay and direct the same court, which is in seisin of Criminal Appeal No. 250 of 2017, to hear out both the appeals.

Accordingly, the order dated 30.07.2019 passed by the learned Additional District and Sessions Judge, Alipore is hereby set aside.

The learned sessions court is directed that in case, the amount, as aforesaid, is not paid by the petitioner by 12.05.2022, under no circumstances, the application for limitation would be condoned or the appeal be admitted.

With the aforesaid observations, the revisional application being CRR 3064 of 2019 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.)