

25.04.2022

Item No.89
Ct.No.34
dc.

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

**C.R.R. 1353 of 2020
with
CRAN 1 of 2020**

**Sri Rajib Ghosh
versus
The State of West Bengal & Anr.**

In Re: An Application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973.

Mr. Tapas Kumar Ghosh,
Mr. Tanmoy Chowdhury ... For the Petitioner.

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

In spite of service, none appears on behalf of the opposite parties.

As earlier directed, certified copy of the ordersheets has been placed before this Court. Let the same be kept on record.

The order dated 22.02.2022 reflects that the learned Judicial Magistrate has been pleased to fix M. Case No. 569 of 2002 on 19.05.2022 for argument. As such, the proceeding till date has not been completed and the learned Magistrate is still in seisin of the matter. It also reflects from the order dated 13.04.2018 that date was fixed for evidence of OPW2 and the learned court was pleased to close the same as on previous three dates, the O.P. preferred adjournment.

In view of the submissions advanced by the learned advocate appearing for the petitioner that such dates were adjourned because of non-appearance of the learned advocate representing the O.P., I am of the opinion that further opportunity must be given to the present petitioner for adducing evidence of OPW2. As more than four years have passed in the meantime, the learned revisional court was of the opinion that such opportunity should not be granted. Having regard to the frustration expressed by the learned Judicial Magistrate as well as the learned Sessions Court, I direct that some opportunity must be granted to the petitioner so that a balance is maintained. Accordingly, on the next date i.e. on 19.05.2022, the petitioner will be allowed to adduce his evidence and complete the same by 01.06.2022 subject to deposit of Rs.10,000/- (rupees ten thousand) as costs. 90% of the amount, so deposited as costs, should be given to the wife/applicant before the learned trial court.

No unnecessary adjournment should be granted to any of the parties and the learned trial court must take into account that the proceedings are pending for about 20 years and as such, dispose of the said Miscellaneous case by 30.06.2022. Thus, the judgement and order dated 24.02.2020 passed by learned Additional District and Sessions Judge, Fast Track, 4th Court, Barasat in Criminal Revision No. 86 of 2018, wherein the order dated 13.04.2018 was affirmed, is hereby set aside.

The revisional application being CRR 1353 of 2020 is, thus, partly 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.)