

10-11-2022
Subha
Item no.31 & 32
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 15 of 2021

Smt. Indrani Chatterjee

-versus-

The State of West Bengal & Anr.

With

CRR 1523 of 2020

Swapam Kumar Karpas

-versus-

The State of West Bengal & anr.

Re : An application under Section 401 read with Section 482 of the Code of Criminal Procedure.

Mr. Pinaki Ranjan Mitra

....for the petitioner.

Mr. Anwar Hossain

Ms. Debjani Sahu

.....for the State.

Mr. Bivash Banerjee

Mr. Rohit Prosad

....for the opposite party no.2.

CRR 15 of 2021 and CRR 1523 of 2020 are being disposed of by a single order in view of the fact that in CRR 15 of 2021, the complainant preferred a revisional application against the judgement and order dated 13.03.2020 passed in Criminal Appeal No. 49 of 2014 and Criminal Appeal No. 46 of 2014 by the learned Additional Sessions Judge, Fast Track Court no.-II Howrah arising out of the order of conviction and sentence passed in Complaint Case No. 1204C of 2006 (T. R. No. 528 of 2006) by the learned Judicial Magistrate, 3rd Court, Howrah.

CRR 1523 of 2020 is the revisional application which relates to the order dated 13.03.2020 passed in Criminal Appeal

No. 46 of 2014 and Criminal Appeal No. 49 of 2014 arising out of the same order of the learned Judicial Magistrate, 3rd court, Howrah in complaint case No. 1204C of 2006.

Learned advocate appearing for the accused, Swapan Kumar Karpas submits that the accused do not have a farthing to remit any money and as such, the fine so imposed by the learned Sessions Judge which is double the amount of the cheque is a heavy burden which the accused will be unable to remit or repay.

On the other hand, it is the submission of the learned advocate for the complainant that the learned Sessions Court has only directed payment of fine of Rs.3,70,359/- and a default sentence for six months.

It has been submitted that having regard to the attitude of the accused who has never expressed any intention to repay the money which was taken prior to the year 2006 and the complainant having pursuing the case for more than 16 years she entitled to a relief which is commensurate with the period which has passed in the meantime.

Learned advocate draws the attention of the court to CRR 3179 of 2018 wherein between the self-same parties, another complaint case was instituted and in the said revisional application being CRR No. 3179 of 2018, the Co-ordinate Bench was pleased to restore the substantial sentence as imposed by the learned trial court.

Having regard to the fact that the appellate court has only

restricted itself to the amount of fine and default sentence without imposing any substantial sentence, I modify the sentence passed by the learned appellate court that the accused, Swapan Kumar Karpas would undergo S. I. for three months and pay fine of Rs.3 lakhs in default to suffer S. I for six months.

The sentence so imposed would be set off in case the petitioner was in custody during the period of trial, appeal or revision.

With the aforesaid observations, CRR 15 of 2021 and CRR 1523 of 2020 are disposed of.

Pending applications, if any, are consequently disposed of.

Report submitted by the Md. Anwar Hossain, learned advocate for the State be kept with the record.

All parties including the learned the learned trial court is directed to act on the server copies of the order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]

