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IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION

C.R.R 217 of 2022

In Re: An application under Sections 397/401 read with 482 of the
Code of Criminal Procedure, 1973;

Berna Tirkey
Versus
The State of West Bengal

Mr. Sourav Ganguly,
Mr. Kallol Nag,
Ms. Esha Acharya,
Mr. Alok Sha.

...for the petitioner.

The subject matter of the revisional application relates to the order dated 07.07.2022 passed by the learned Additional District and Sessions Judge, Alipurduar, in Criminal Appeal No.17 of 2022.

I find that the learned Additional District and Sessions Judge was dissatisfied with the reasons so assigned for condoning the delay in respect of judgment and order of conviction and sentence passed by the learned trial court. In cases of conviction and sentence, the primary object of a criminal court is to assess the liberty of the citizen. For assessing the liberty, the duty of the appellate court and the revisional court are to see that there are no violations of the principle of natural justice, i.e., the procedure are adhering in its

true and proper spirit. It would not be out of place to state that an appeal is a matter of right and continuation of trial. The appellate court, as such, is to consider the case of the appellant without strictly adhering to the issue relating to delay. The grounds of the application under Section 5 of the Limitation Act so placed before the learned appellate court are deemed to be just and sufficient in the background of the facts of the case as the appellant had been knocking the doors for a period of 2 years and 260 days without any remedy. Consequently, the application for condonation of delay filed by the appellant is hereby allowed.

Accordingly, Criminal Appeal No.17 of 2022 is restored to its original file and number before the learned Additional District and Sessions Judge, Alipurduar. The learned lawyer representing the appellant is directed to be present before the learned appellate court on 23rd September, 2022 when the learned appellate court would exercise its powers in respect of admission of appeal.

With the aforesaid observations, CRR 217 of 2022 is disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)

