

13.01.2023
S/L No.11
KS

C.R.R. 450 of 2021

Susanta Khan @ Susanta Kumar Khan
-Vs.-
Benu Kumar Saudagar

Mr. Arindam Das
Md. B. Israil

..... For the Petitioner

Ms. S. Biswas

.....For the State

The present revisional application has been preferred against judgment and order dated 17th August, 2019 passed by the learned Additional District & Sessions Judge cum Special Court (I.E. Act), Berhampore, Murshidabad in connection with Criminal Appeal No.02 of 2014. Records of the learned Appellate Court reflect that none represented on behalf of the appellant or any lawyer was engaged to represent the appellant.

As none appeared on behalf of the State, Ms. Sreyashee Biswas, learned advocate who ordinarily represents on behalf of the State is directed to represent the case. Her appointment may be regularized by the concerned authorities.

Having considered the settled proposition of law as pronounced in *Ram Naresh Yadav Vs. State of Bihar* reported in (2014) 14 SCC 238, I am of the view that the said judgment and order is to be set aside. Paragraph 3 of the said judgment is set out as follows:-

“3. Since the order of conviction and sentence in the present matter has been confirmed without hearing either the appellants or the counsel for the appellants, the order must be set aside and the matter must be sent back to the High Court for passing an appropriate order in accordance with law after hearing the appellants or their counsel and on their failure to engage counsel, after hearing the counsel appointed by the Court to argue on their behalf. As the matter is being remanded to the High Court, no orders can be passed on the bail application. The appellants, if so advised, may approach the High Court for bail.”

In view of the aforesaid, the revisional application being, CRR 450 of 2021 is allowed.

Learned Appellate Court would issue notice upon all the affected parties and rehear the appeal on merits. The appellant/present petitioner is directed to appear before the Appellate Court on 15th February, 2023. The Learned Appellate Court would thereafter issue notice upon the affected parties and decide the appeal on merits after affording a reasonable opportunity to each of the parties.

Needless to state that this Court has not gone into the merits of the revisional application and allowed the same only on the ground that the petitioner did not have any opportunity before the learned Appellate Court.

All parties are directed to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Tirthankar Ghosh, J.)