

02.02.2023
Item No. 12
BR

CRR 586 of 2010
With
CRAN 1 of 2010

In the matter of: Ram Chandra Jaiswal &
Ors.

.....petitioner
Mr. P.Khan ... for the petitioners.

Mr. N.P. Agarwal,
Mr. Pratick Bose for the State

Mr. Prattay Khan, learned advocate for the petitioners submits that he has no instruction. This criminal revision was filed way back in 2010 challenging the order passed by learned Judge, City Sessions Court, Calcutta in criminal appeal no. 4A of 2010 whereby learned Appellate Court was pleased to dismiss the appeal and affirm the order passed by learned trial Court on 28th September, 2008.

The fact of the case in brief is that the opposite party herein Smt. Shanti Devi Jaiswal filed an application under Section 12 of the Protection of Women from Domestic Violence Act before the learned Additional Metropolitan Magistrate, Calcutta. The said case was transferred to the Court of learned 3rd Metropolitan Magistrate, Calcutta the transferee Court that is learned 3rd Metropolitan Magistrate, Calcutta was pleased to fix 4th February, 2009 for appearance of the parties before the Court but none turned up. 10.2.2009 was

fixed for appearance, when the opposite party did turn up but the petitioner was found absent. Learned Trial Court was pleased to seek an explanation from the petitioner for her absence before the Court on the date fixed and ultimately on 19th February, 2009 the case was dismissed. On 5th March, 2009 and on 30th July, 2009 two petitions were taken out by the petitioner for restoration of the case to its original file. It was contended that no notice was served upon the petitioner. Learned trial Court after perusal of the case record found substance in the submission made on behalf of the petitioner and was pleased to recall the order of dismissal of the case. This order was challenged by preferring an appeal. Learned appellate Court refused to accept the appeal and the same was dismissed. It is the settled principle of law that no one should suffer for the laches on the part of the Court. When learned trial Court found that notice could not be served upon the petitioner, learned trial Court was absolutely justified in recalling the order of dismissal.

This criminal revision does not merit any consideration and is dismissed however, without costs. Order of stay, if any, stands vacated.

Let a copy of the order be sent down to the learned trial Court for information and necessary action.

Urgent certified copy, if applied therefor, be supplied upon compliance of usual formalities.

(Siddhartha Roy Chowdhury, J.)