

06.07.2023
rc/ct.no.34
Item No.59

**CRR No. 1452 of 2023
with
CRAN No. 1 of 2023**

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

**Swapan Dey
Versus
S.S.Enterprises**

Mrs. Devipriya Mitra ...for the petitioner

Mr. K.C.Garg
Mrs. Sunita Agarwal ..for the O.P.No.1

Affidavit of service filed by the petitioner is taken on record.

This revisional application has been preferred challenging the order dated January 05, 2019. There has been substantial delay in preferring the application which has been opposed by the learned advocate appearing for the complainant/ opposite party.

I find from the judgment and order dated January 05, 2019 which was passed in Criminal Appeal No. 65 of 2014 that the same was dismissed for non-prosecution as none appeared or represented on behalf of the appellant.

Having considered the factum I find that the learned Appeal Court is right. More so, in a case where there is a substantial sentence I dispose of the revisional application with the following conditions :-

- (i) The delay as prayed for is condoned.
- (ii) If the appellant within a period of 35 days deposit a sum of Rs.2.50 lakhs with the learned Appeal Court or any Court so directed by the learned Appeal Court, the learned Appeal Court would recall the warrant of arrest issued by the learned Trial Court, admit the appeal and fix dates for hearing of the appeal after issuing the notice to the complainant/respondent.
- (iii) If such an amount is deposited either before the Appeal Court or any Court directed by the Appeal Court the complainant on proper proof would be entitled to withdraw the money subject to decision of the Appeal Court.
- (iv) In case within 35 days such amount is not deposited the order of the Appeal Court will be treated to be affirmed and the learned Trial Court would proceed to the next harsher process of law.
- (v) If the hearing of the appeal commences the same should be concluded within a period of 90 days from the date of such commencement.

With the aforesaid observation this revisional application being CRR No. 1452 of 2023 is disposed of.

The connected application, being CRAN No. 1 of 2023 stands disposed of accordingly.

There shall however be no order as to costs.

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

(Tirthankar Ghosh,J)