

16-06-2023
Subha
Item no.85
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 1502 of 2023

Aklesh Shaw
-versus-
Kakoli Shaw @ Mondal

Mr. Ayan Bhattacharya
Mr. S. Dutta

.... for the petitioner.

Petitioner is aggrieved by the order dated 27.02.2023 passed by the learned Judicial Magistrate, 5th Court, Howrah in Misc. Execution Case No. 344 of 2016 arising out of Misc. Case No. 66 of 2016. The said case is under the provisions of Section 12 of the P.W.D.V Act, 2005.

Learned advocate appearing for the petitioner is aggrieved by the aforesaid order of the learned Magistrate and submits that till date the petitioner has paid a sum of Rs.8,00,000/- and Rs.20,000/- is due.

The provisions of P.W.D.V Act provides for statutory appeal. It is in great exigency the High Court would exercise its jurisdiction under Section 482 of the Code of Criminal Procedure. The exigency in this case is limited to the warrant of arrest which has been issued.

On an appreciation of the totality of the circumstances, I direct the petitioner to approach the learned District and Sessions Judge under Section 29 of the P.W.D.V Act, 2005.

The petitioner would go on paying a sum of Rs.20,000/- per month. The warrant of arrest issued in Misc. Execution No. 344 of 2016 shall remain stayed for period of 60 days within which the appeal should be preferred before the learned appellate court. The learned appellate will freshly consider the issues which have been canvassed in the present revisional application without being influenced by any

observations made by this court. After the appeal is admitted, it would be at the discretion of the appellate court to decide regarding the fate of the warrant of arrest so issued in the execution case.

With the aforesaid observations, the present revisional application being CRR 1502 of 2023 is disposed of.

. Pending any other applications are disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]