

26.4.2023
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SB
Ct. No.236

CRR 1656 of 2004
CRAN 1 of 2023

In the matter of : Sohanlal Chhalani

Mr. Swapan Kr. Mallick
Ms. Sudeshna Das ... for the petitioner

Mr. S.G. Mukherjee, Ld. P.P.
Mr. Abhra Mukherjee
Mr. Dipankar Mahata ... for the State

Re : CRAN 1 of 2023

Despite service none appears on behalf of the opposite party no. 2

Heard Mr. Mallick learned advocate representing the petitioner. Inaction on the part of the petitioner has been explained properly and is found to be sufficient and thus accepted.

Consequently, C.R.R. 1656 of 2004 is restored to its original file and number.

The application being **CRAN 1 of 2023 is thus disposed of.**

This revisional application impeaches the judgement and order dated 19.6.2004 passed by the learned Additional Sessions Judge, F.T.C. Dinhata, Cooch Behar in Criminal Appeal No. 7 of 2000 affirming thereby the order of conviction and sentence passed by the learned Sub-Divisional Judicial Magistrate, Dinhata Cooch Behar (as then was) in C.R. Case No. 92 of 1987.

Mr. Mallick, with all fairness submits that the petitioner has been carrying with him the baggage full of trauma and agony for more than thirty years. He is now aged about 82 years and he has

surrendered to the jurisdiction of the learned Trial Court on 13.4.2023. Mr. Mallick placed the certified copy of the order passed by the learned Sub-Divisional Judicial Magistrate, Dinhata Cooch Behar to substantiate his assertion. The same is taken on record.

Considering the facts and circumstances of the case and having perused the judgement passed by the learned Trial Court and affirmed by the learned Appellate Court, I do not find any reason to interfere with the order of conviction. However, considering the age of both the petitioner as well as the criminal proceeding, I am inclined to interfere with the sentencing part.

In my opinion, ends of justice would be met if the petitioner / convict is sentenced to suffer imprisonment for the period already undergone and to pay a fine of Rs.25,000/- out of which a sum of Rs.20,000/- is to be paid to the District Legal Services Authority, Cooch Behar and a sum of Rs.5,000/- is to be deposited in the Court by 1st May, 2023. Learned Trial Court is directed to issue release order upon compliance of this direction.

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

Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon completion of requisite formalities.

Parties are to act on the server copy of this order duly downloaded from the official website of this Court.

(Siddhartha Roy Chowdhury, J.)