

05-06-2023
Subha
Item no.34
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 2241 of 2022

Suresh Mahato
-versus-
Narayani Filing Station

In Re : An application under Section 397 of the Code of Criminal Procedure.

Mr. Mani Shankar Chattopadhyaya
Ms. Shalini Singh
....for the petitioner.

Mr. Chattopadhyaya, learned advocate appearing on behalf of the petitioner challenges the continuance of the proceedings initiated before the learned Additional Chief Judicial Magistrate, Raghunathpur, Purulia being Complaint Case No. 12 of 2022.

Learned advocate for the petitioner has raised the contention that the present petitioner has been foisted with the criminal case without having any liability and the same is admitted in the petition of complaint.

On an assessment of such submission, I am of the view that the same is to be considered at the stage of Section 251 of the Code of Criminal Procedure. However, I have checked the records of the case including the orders which have been enclosed in the present revisional application particularly the order dated 24.02.2022. The order dated 24.02.2022 reflects that an application under Section 5 of the Limitation Act was submitted along with the petition of complaint under Section 138 of the N. I. Act. The learned trial

court by referring to writ petition(Civil) No. 3 of 2020 has allowed the same automatically. On an assessment of the same, I am of the opinion that even if it is allowed, the proposed accused persons have a right of audience particularly in cases under the provisions of Section 138 of the N. I. Act, wherein statutory period has a relation with the commission of the offence. That being so, the order taking cognizance and subsequent orders are set aside. The learned Magistrate would first hear the application on the point of condonation of delay thereafter, if required, proceed with the case.

With the aforesaid observations, the present revisional application being CRR 2241 of 2022 is disposed of.

Pending applications, if any, are disposed of accordingly.

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]