

20.04.2023

p.b.
Sl. No.21.

CRR 2400 of 2005

In the matter of: Biswajit Roy Choudhuri.

Mr. Ranadeb Sengupta,
Ms. Jeenia Rudra,
Ms. Megha Chanda.

.....for the petitioner.

Mr. Binay Kr. Panda,
Ms. Puspita Saha.

.....for the State.

Heard Mr. Sengupta , learned counsel for the petitioner and Mr. Panda, learned counsel representing the State.

In this revisional application, the judgment passed by the learned Additional Sessions Judge, 1st Fast Track Court, Calcutta in Criminal Appeal No.55 of 1998 has been challenged. It is submitted that the appeal was disposed of without giving an opportunity to the appellant or his advocate of being heard.

My attention is drawn to the Order No.2 dated 23rd July, 1998 when the petition was admitted and direction was given to issue notice upon the respondents. Subsequently, on 11th March, 2004 vide Order No.29, learned Appellate Court held the following:-

“Today is fixed for further order in respect of this case.

None of the parties has taken any step. However, as per report of B.C., the trunk containing some exhibits is received from the City Civil and Sessions Court. I have seen the exhibits. 15.3.05 was set for delivery of judgment and on 15th March, 2004 vide Order No.29 the appeal was dismissed with costs and order of conviction as well as sentence passed by learned trial court was affirmed”.

It is submitted that Section 384 of the Code of Criminal Procedure envisages that no appeal presented shall be dismissed unless a reasonable opportunity of being heard has been provided to the appellant.

But, the order-sheet indicates that learned trial court had failed to adhere to the provision as laid down under Section 384 of the Code of Criminal Procedure and dismissed the appeal which is bound to cause serious prejudice to the appellant. On this score alone, the impugned judgment is set aside in order to avert the abuse of process of law.

Learned Appellate Court is directed to admit the appeal to its own file and dispose of the same after giving an opportunity to the parties to have their say before the learned Court. It is expected that considering the age of the lis learned appellate court would take all possible steps to dispose of the appeal as expeditiously as possible, preferably by 19th May, 2023 since the

appellant, as it is submitted, is a senior citizen, aged about 75 years. No coercive step, however, should be taken against the appellant till the disposal of the appeal.

The revisional application is, thus, disposed of.

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

(Siddhartha Roy Chowdhury, J.)