

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

C.R.R. 3375 of 2022

***Sk Abdul Alim
Vs.
The State of West Bengal & Ors.***

**For the petitioner : Mr. Anand Keshari, Adv.
Mr. Prasun Mukherjee, Adv.
Mr. Kanchan Roy, Adv.**

For the State : Mr. Ranabir Roy Chowdhury, Adv.

Heard on : 17.01.2023

Judgment On : 17.01.2023.

Bibek Chaudhuri, J.

This is an application under Section 482 of the Code of Criminal Procedure filed by the de-facto complainant of Sessions Trial No.29(7)/2008 arising out of G.R. Case No.225 of 2006 wherein the learned Additional Sessions Judge, Fast Track 1st Court, Arambagh, Hooghly by a judgment and order of conviction and sentence dated 18th November, 2008 sentenced the accused persons/opposite parties to suffer rigorous imprisonment for life and with fine of Rs.25,000/- (Rupees twenty five thousand), in default to suffer rigorous imprisonment for one year for the offence punishable under Section

302 read with Section 149 of the Indian Penal Code. The opposite parties/convicts were also sentenced to suffer rigorous imprisonment for 3(three) years and to pay fine of Rs.1,000/-(Rupees one thousand), in default to suffer rigorous imprisonment for 6(six) months for the offence punishable under Section 148 of the Indian Penal Code and also the said convicts were sentenced to suffer rigorous imprisonment for 1(one) year for the offence punishable under Section 448 of the Indian Penal Code.

The opposite parties/convicts preferred an appeal before this Court which was registered as CRA 796 of 2008. The Division Bench of this Court heard the appeal and by a judgement dated 21st September, 2017 were pleased to dismiss the appeal affirming the order of conviction and sentence passed by the Trial Court in the above-mentioned appeal.

Subsequently some of the convicts filed Special Leave Petition SLP (Cri) No.6122 of 2019 before the Hon'ble Supreme Court assailing the judgment and order of affirmation of conviction and sentence passed by the Trial Court. The Hon'ble Supreme Court was pleased to dismiss the Special Leave Petition. Accordingly, the order passed by the Trial Court is affirmed up to the Hon'ble Supreme Court. The opposite parties/convicts are liable to suffer the remaining period of sentence. However, the Trial Judge has expressed his

inability to issue warrant to suffer sentence against the opposite parties who were released on bail by the Division Bench of this Court during the pendency of the appeal on suspension of sentence.

It is found from the report submitted by the learned Additional Sessions Judge, Arambagh that the lower court record is not traceable. This Court fails to follow the reason for having lower court record when the judgment of the Trial Court, the Division Bench of this Court and the Hon'ble Apex Court are before the learned Trial Judge.

I have already mentioned that the opposite parties are under obligation to suffer the remaining part of sentence. The remaining part of sentence can easily be calculated by the Additional Sessions Judge on perusal of the jail warrants of the opposite parties which are of course lying with the Correctional Home Authority. The opposite parties also can claim the period of sentence which they have suffered and the learned Judge can verify the same with the Correctional Home Authority.

For want of record, an order of sentence which is upheld up to the Apex Court will not be carried out, is a matter of great regret and disgrace.

Therefore, the matter is directly brought to the knowledge of the learned Sessions Judge, Hooghly with a direction that the learned

Sessions Judge shall instruct the learned Additional Sessions Judge, Arambagh in his administrative side as to how the opposite parties should be compelled to suffer remaining part of the sentence as per clear delineation made by this Court hereinabove. A copy of this order be also sent to the learned Additional Sessions Judge, 1st Court, Arambagh, Hooghly.

The learned Additional Sessions Judge, 1st Court, Arambagh, Hooghly is at liberty to notify the de-facto complainant to produce certain copies of the judgments passed by the Trial Court, the Division Bench of this Court and the Hon'ble Supreme Court for her perusal and necessary action.

With the above order, the instant revision is disposed of.

Entire exercise of issuance of warrant to suffer sentence be completed within three weeks from the date of communication of this order.

(Bibek Chaudhuri, J.)

**Mithun De/
A.R. (Ct).
SI No.3.
D/L.**