

22.06.2023
Item No.4
gd/ssd

MAT/1664/2022
IA NO: CAN/1/2023, CAN/2/2023
KRISHNA SINGHA (DAS)
VS
STATE OF WEST BENGAL AND ORS.

Mr. Partha Chakraborty,
Ms. Poulama Dutta
..for the Appellant.

Re: CAN 2 of 2023

1. CAN 2 of 2023 has been filed by the appellant seeking condonation of delay of seven days in filing this appeal.

2. Learned counsel for the appellant has referred to the explanation which has been furnished in the application and also has made submission in respect of the explanation for the delay.

3. We find that the delay in filing this appeal has been sufficiently explained and the appellant was prevented from filing the appeal within time on account of bona fide reason.

4. Hence, CAN 2 of 2023 is, accordingly, allowed.
The delay in filing the appeal is condoned.

Re: MAT 1664 of 2022

5. This intra court appeal by the appellant is directed against the order passed by the learned Single Bench dated 16th August, 2022 in WPA 13782 of 2021.

6. The appellant filed the writ petition alleging that police inaction on the part of the 3rd respondent/police in not providing assistance to the appellant to take possession of the property which is alleged to have been sold to the appellant by the private respondents.

7. Unless and until a criminal offence is made out, the police authorities are not expected to entertain a complaint and registered the FIR. Therefore, the onus on the appellant to establish that the private respondents have committed certain criminal acts.

8. In the absence of any such allegation, the blanket direction cannot be issued to the authorities to register a case against the private respondents.

9. Therefore, we are of the view that unless and until the appellant makes out a case before the respondent police that the private respondents have committed criminal offence, no direction can be issued.

10. In the light of the above, the appeal stands disposed of by giving liberty to the appellant to file a fresh complaint before the 3rd respondent clearly setting out the allegation against the private respondents and if in the opinion of the 3rd respondent any criminal offence is made out, then the complaint

shall be initiated and proceeded in accordance with law.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(AJAY KUMAR GUPTA, J.)