

01-03-2024
Subha
Item no. 42
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 747 of 2023

Jayanta Kumar Das
-versus-
Sri Dilip Kumar Charan and anr.

Ms. Srabanti Das
Ms. Dipika Banu
.....for the petitioner.

Petitioner before this court is aggrieved by the factum of Criminal Appeal No. 38 of 2019 being dismissed for default by the learned FTC-2, Howrah.

The subject matter relates to Criminal Appeal No. 38 of 2019. In view of the fact that appeal is a matter of right and the learned court ought to dispose of the same on merits, I direct that the learned appellate court would after issuing notice to the complainant to hear out the appeal on merits.

If the petitioner intends to continue on bail, he has to deposit a sum of Rs.4 lakhs before the learned trial court being the learned Judicial Magistrate, 1st court, Howrah, who passed the judgement in Complaint Case No. 121 of 2016.

In case such an amount is not deposited with the learned trial court, the learned trial court would also be in a position to pass orders for execution of the sentence. It is, hereby, made clear that the execution case and the appeal are two separate issues. The

appeal must be heard on the merits of the case.

Accordingly, the order dated 09-01-2023 passed in Criminal Appeal No. 38 of 2019 is set aside. The learned appellate court being the Fast Track Court, Howrah would hear out the appeal on merits.

In case the appellant is not present, the learned appellate court would engage somebody from the District Legal Service Authority and hear out the appeal on merits.

So far as the learned Judicial Magistrate, 1st court, Howrah is concerned, the said court would issue notice upon the complainant to take steps in accordance with law.

With the above observations, the present revisional application being CRR 747 of 2023 is disposed of.

Pending applications, if any, are consequently disposed of.

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]

