

19.07.2024
rc/ct.no.34
Item No.15

**CRR No. 1034 of 2024
with
CRAN No. 1 of 2024**

In the matter of : Sagar Sarkar

.....Petitioner

Mr. Dipanjan Dutt
Mr. Souma Subhra Ray

...for the Petitioner

Ms. Manaswita Mukherjee

..for the O.P.

Heard learned counsels for the parties.

The petitioner seeks condonation of delay of 1004 days in filing the revisional application.

Learned counsel for the petitioner submits that the judgment impugned was delivered without service of notice upon the petitioner and the petitioner was aware of the said judgment only upon service of notice of execution case upon him.

Per contra, learned counsel for the opposite party submits that notice was duly served upon the petitioner despite which he failed and neglected to appear before the learned revisional forum and contest the application.

The petitioner has tried his best to explain the delay in filing the revisional application. It is trite law that an application under Section 5 of the Limitation Act should be considered liberally and it is desirable that the case is disposed of on merits and not discarded merely on the ground of limitation.

In view of the above, the application under Section 5 of the Limitation Act is allowed upon condoning the delay in filing the revisional application, in the interest of justice.

By consent of the parties, the revisional application is taken up for consideration.

The petitioner is aggrieved by the order of interim maintenance granted by the judgment and order passed by the learned Additional Sessions Judge, Fast Track 4th Court, Barrackpore on March 02, 2021 in Criminal Revision No. 90 of 2020, enhancing the maintenance granted by the learned Trial Court to Rs.25,000/- per month. Learned counsel for the petitioner submits that the judgment was delivered ex parte and no notice of hearing was served upon him. The petitioner seeks to appear before the learned revisional court and contest the revisional application filed by the opposite party.

Learned counsel for the opposite party submits that the petitioner should continue to pay the interim maintenance as directed by the learned Fast Track Court till the matter is considered by the said learned Court.

In my considered view, the explanation given by the petitioner for not appearing before the learned Fast Track Court to contest the revisional application is not satisfactory. However, since the petitioner desires to appear before the said learned Court and contest the prayer for interim maintenance made by the opposite party, such opportunity be granted to the petitioner in the interest of justice.

In view of the above, the judgment and order passed by the learned Additional Sessions Judge, Fast Track 4th Court, Barrackpore on March 02, 2021 in Criminal Revision No. 90 of 2020 be set aside/quashed.

The learned Court shall consider the matter afresh upon granting reasonable opportunity of hearing to both the parties and pass a reasoned order within one month from the date of communication of this order, in accordance with law.

It is undertaken on behalf of both the parties that neither of the parties shall pray for an adjournment before the learned Court at the time of consideration of the revisional application.

CRR NO. 1034 of 2024 along with CRAN No. 1 of 2024 is disposed of accordingly.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh,J)