

10.05.2024
tkm/ct 28
sl no.36-38

**GA 1 of 2024
with
CRA(DB) 3 of 2024
with
CRA(DB) 65 of 2024**

In Re : An application under section 377(1) Cr.P.C.

In Re : State of West Bengal appellant

Mr. Saibal Bapuli
Mr. Bibaswan Bhattacharya
..... for the appellant/State

1. Appellant-State has preferred the appeal seeking two-fold relief. Firstly, it is contended that opposite party-accused ought to have been convicted for a graver offence. Secondly, it is contended a higher sentence be awarded.
2. In light of the nature of reliefs sought, we are of the opinion that an appeal under section 377 Cr.P.C simplicitor is not maintainable.
3. It is open to the State to prefer appeal under section 378(3) Cr.P.C after seeking leave under section 378(2) Cr.P.C.
4. in light of the aforesaid, learned counsel seeks to withdraw the appeal and file afresh.
5. Leave is granted to seek appropriate remedy in accordance with law.
6. Appeal is dismissed as withdrawn.
7. Department is directed to return the certified copy of the impugned judgment to the appellant after the same is replaced by a photocopy.
8. CRA(DB) 3 of 2024 and CRA(DB) 65 of 2024 be delisted.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)