

23.08.2024
Serial no. 3
CT.-35
[G.S.D]

CRA (SB) 90 of 2023

In the matter of : Ashim Kumar Surana

... .. Appellant

Mr. Saurabh Guhathakurata
Ms. Nilanjana Sarkar
Mr. Abhratanu Sarkar

... for the appellant

Mr. Debasish Roy, Id. PP
Ms. Sreyashee Biswas

... for the State

Report submitted by Ms. Biswas, Id. advocate, who was engaged by this court on behalf of the State, as she ordinarily appears on behalf of the State, be kept with the record. The report has been prepared by the Deputy Commissioner of Police, North & North Suburban Division, Kolkata.

As per direction of this court, a communication was made with the concerned officer of Mumbai.

The report reflects that in spite of efforts being taken by the Deputy Commissioner of Police (Zone-11), Borivali P.S., it has been found that the respondent is not residing at the given address since last six years.

Ld. advocate for the appellant/complainant submits that it is the only address available with the complainant/appellant. Accordingly, the appeal is taken up on merits.

The records also reflect that the appeal has been preferred against an order under Section 256 of the cr.p.c., wherein the Id. trial court being the Id. Metropolitan Magistrate, 14th Court, Calcutta by its order dt. 23.08.2022 was pleased to dismiss the complaint for non-prosecution. The complaint case is of the year 2016 and, the prosecution was under Section 138 of the N.I. Act.

It is the duty of the complainant to pursue the case diligently before the Id. trial court and not to evade on the date so fixed.

Having regard to the fact that the complainant has already suffered because of the cheque being dishonored, another opportunity is granted to the complainant to prove its case.

Accordingly, the order dated 23.08.2022 passed by the Id. Metropolitan Magistrate, 14th Court, Calcutta in connection with Case No. CN/110247/2016 is hereby set aside.

CRA (SB) 90 of 2023 is, thus, **Allowed**.

Complainant is directed to appear before the Id. Metropolitan Magistrate, 14th Court, Calcutta on 25th of September, 2024, when the Id. Metropolitan Magistrate would proceed to the next step of the case.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

(Tirthankar Ghosh, J.)