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**CRR No. 3222 of 2024
(CRAN 1 of 2024)**

In Re: Kabita Kundu & Anr.

**Mr. Shib Shankar Banerjee
Mr. Sauradeep Dutta
Mr. Himadree Ghosh
... For the Petitioners**

**Mr. Saryati Dutta
Ms. Rajnandini Mondal
... For the State**

Re: CRAN 1 of 2024

This is an application for condonation of delay in filing the revisional application.

Heard learned counsels for the parties.

Good grounds being shown, the delay in filing the revisional application is condoned.

CRAN 1 of 2024 is disposed of.

Re: CRR 3222 of 2024

The petitioners have assailed the order passed by the learned Judicial Magistrate, 5th Court, Barrakpore on 20th December, 2023 in G.R. case no. 1157 of 2004 closing prosecution evidence and fixing the date for examination of the accused under Section 313 of the Code of Criminal Procedure. Learned counsel for the petitioners submits that out of 9 charge-sheeted witnesses, 4 witnesses have been examined and two other private witnesses were not examined since they were not found. The doctor who conducted autopsy, the recording officer and the investigating officer remain to be examined.

It appears from the order impugned the witnesses did not turn up before the learned trial Court despite several opportunity being

granted for which the trial Court was compelled to close the evidence of prosecution witnesses.

Since examination of the autopsy surgeon and the police officers is necessary for arriving at a proper conclusion in the case, the order impugned is required to be set aside.

The order impugned dated 20th December, 2023 passed by the learned Judicial Magistrate in G.R. case no. 1157 of 2004 is set aside. Learned Magistrate is directed to exhaust all procedure for securing the attendance of the witnesses being autopsy surgeon, recording officer and the investigating officer. Since it is submitted that the case diary is not being produced by the G.R.O despite repeated directions, learned trial Court shall direct the GRO to produce the case diary on the date fixed for examination of witnesses.

Considering the age of the case, learned trial Court shall take necessary steps for examination of the remaining witnesses as expeditiously as possible and conclude the trial within six months from the next date of hearing fixed before him without granting any unnecessary adjournment to either of the parties, in accordance with law. The prosecution and other stake holders connected with the case shall assist the learned trial Court in disposing of the matter expeditiously.

CRR 3222 of 2024 is disposed of.

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

(Suvra Ghosh, J.)