

13.09.2024.
33.
Ct. No.237
Bd.

CRR 4220 of 2022
With
I.A. No.CRAN 1 of 2024

Sri Ritwick Bose
-vs-
Sri Samir Kumar Sarkar & Anr.

Mr. Anand Keshri
Ms. Pubali Debnath
Ms. Soumili Choudhury

.....for the Opposite party no.1.

Affidavit of service filed by the opposite party no.1 is taken on record.

This is an application under section 482 of the Code of Criminal Procedure, which has been preferred against judgment dated 7th September, 2022 passed by the Additional District and Sessions Judge, 6th Fast Track Court, Alipore, in connection with Criminal Appeal No. 102 of 2016, arising out of the judgment dated 20th April, 2016 passed by Judicial Magistrate, 3rd Court, Alipore. By the impugned judgment the petitioner herein was convicted and the convict/petitioner herein was sentenced to pay compensation of Rs. 1,50,000/-, the amount covered by the cheque in question, plus a sum of Rs. 10,000/- as costs for prosecuting the accused, within two months from the date of judgment.

The convict preferred the appeal before the court below and the court below affirmed the judgment and order of the

Trial Court, by the impugned Judgement and order dated 7th September 2022.

It is further submitted by the applicant herein that the petitioner herein has deposited a sum of Rs. 75,000/- before the Trial court as reflected in the order dated 22nd December, 2022 in C 8409 of 2007 and thereafter he has also deposited Rs. 85,000/- on 31st May, 2023 before the Trial Court.

Thereafter the petitioner has made a prayer before the Trial Court for withdrawal of the said amount, but the trial court refused to allow such prayer on the ground that the present application filed by the petitioner, is pending before this Court.

Petitioner by filing the present application has prayed for granting him permission to withdraw the said amount of Rs. 1,60,000/- from the judicial cash, so deposited by the petitioner.

Petitioner/opposite party in this application is not represented in spite of service.

Upon hearing learned counsel appearing on behalf of the applicant, the applicant/opposite party is hereby allowed to withdraw the said amount of Rs. 1,60,000/- from the trial court subject to final adjudication of the present Application and also subject to filing an undertaking by the Applicant before the Trial Court that if the petitioner will succeed in the present application, the opposite party will return the

said amount along with 9% simple interest to the opposite party/petitioner herein.

This order is passed without prejudice to rights and contentions of the parties.

The connected application being CRAN 1 of 2024 is also disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of usual undertakings.

(Ajoy Kumar Mukherjee, J.)