

April 29, 2024

AP (23)

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction**

**CRR 265 of 2023
Yogesh Chandra Gupta & Ors.
v/s.
The State of West Bengal & Ors.**

In Re: An application under Section 482 of the Code of Criminal Procedure

Adv. Nripen Das,
Adv. Debanjan Das,

... for the petitioners.

Adv. Aditi Shankar Chakraborty, Ld. APP
Adv. Sourav Ganguly,

... for the State.

Adv. Prajwal Gurung,
Adv. Jayant Kumar Singh,

... for the Respondent no. 3.

Affidavit of service is taken on record.

The order passed by the learned Judicial Magistrate, 2nd Court at Siliguri on 26th August, 2022 dismissing the complaint case filed by the petitioner for non prosecution is assailed in the present application.

Heard learned counsels for the parties.

It appears that several opportunities were granted to the petitioners to place his contention before the learned trial Court despite which the petitioners failed and neglected to appear before the Court for which the case was dismissed for non prosecution.

Nevertheless, since the petitioners are inclined to contest the matter before the learned trial Court, justice demands that the order

impugned be set aside and the petitioners be granted an opportunity to place their contention before the trial Court.

In view of the above, the order impugned dated 26th August, 2022 passed by the learned Judicial Magistrate, 2nd Court at Siliguri is set aside. C.R. 265 of 2011 is restored.

The application being CRR 265 of 2023 is allowed.

There shall however be no order as to costs.

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

(Suvra Ghosh, J.)