

Court No.  
28  
Item 114,  
115  
ssi

30.04.  
2025

**C.R.R. 1203 of 2025**  
**CRAN 1 of 2025**  
**With**  
**CRR 1202 of 2025**  
**CRAN 1 of 2025**

In the matter of:-**Mukherjee Power Point and another.**

Mr. Tapas Kr. Ghosh  
Mr. Tanmoy Chowdhury  
...for the petitioners  
Mr. Nilanjan Adhikari  
Ms. Oindrila Sinha  
Mr. Nitin Sharma  
...for the opposite party

As the two revisional applications being CRR 1203 of 2025 and CRR 1202 of 2025 arise out of the same criminal proceeding, the two are taken up for hearing together.

Learned senior counsel representing the petitioners submits as follows. The petitioner was convicted by the trial Court for an alleged offence under Section 138 of the Negotiable Instruments Act. He preferred an appeal. But, due to laches on the part of his learned counsel, he was not represented on a few occasions before the learned Appellate Court. However, the learned Appellate Court could not have dismissed the appeal for default or for non prosecution. But, it did so by an order dated 16.05.2023 and thereafter the learned Magistrate issued a warrant of arrest against the petitioners.

Learned counsel appearing on behalf of the de facto

complainant opposes the prayer and submits that the petitioner did not take steps before the learned Appellate Court on a number of dates.

An appeal preferred against an order of conviction and sentence passed by a trial Court in a criminal case cannot be dismissed for default or for non prosecution. It has to be decided on merits.

In view of the above, the impugned order dated 16.05.2023 passed by the Judge, Special Court Cum Additional District and Sessions Judge at Durgapur in Criminal Appeal No. 06 of 2018 is set aside. The matter is remanded back to the learned trial Court with a request to have adequate notices given to the private parties and to have the matter disposed of on merits in accordance with law and as expeditiously as possible.

As a natural consequence of setting aside of the order passed by the Appellate Court, the order of issuance of warrant arrest is also set aside.

With these observations, the reivisional application and the connected application are disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

**(Jay Sengupta, J.)**