

CRR 1181 of 2024

Kaushik Baul
Vs.
The State of West Bengal & anr.

Adv. Shah Jamal Hazra,
Adv. Basudev Rakshit,

... for the Petitioner.

Adv. Priyanka Agarwal,

...for the op. no.2.

Heard learned counsels for the parties.

It appears from the supplementary affidavit that the petitioner has deposited a sum of Rs.1 lakh with the learned Metropolitan Magistrate, 11th Court, Calcutta, presently redesignated as the learned Judicial Magistrate, 11th Court, Calcutta, in connection with CN/684 of 2017 in compliance with the order passed by this Court on 19th April, 2024.

The petitioner has assailed the order dated 15th September, 2023 passed by the learned Chief Judge (in-charge), City Sessions Court, Calcutta in Criminal Appeal no. 116 of 2023 dismissing the application under Section 5 of the Limitation Act as well as the criminal appeal.

It appears from the copy of receipt produced by the petitioner that the petitioner deposited Rs. 4,000/- before the District Legal Services Authority, Kolkata on 29th August, 2023 in compliance with the order passed by the learned Appellate Court on 18th August, 2023 in Criminal Appeal no. 115 of 2023. The petitioner failed to file the said receipt before the learned Appellate Court despite direction of the learned Court and was absent before the learned Court without steps on the relevant date for which the application under Section 5 of the Limitation Act was dismissed. As a consequence the criminal appeal was also dismissed since it was barred by limitation.

Since the petitioner has deposited the amount of Rs.4,000/- in terms of the order passed by the learned Appellate Court and intends to assail the judgment delivered by the learned trial Court before the learned Appellate Court, the petitioner should be allowed to do so in the interest of justice.

In view of the above, the order impugned dated 15th September, 2023 passed by the learned Chief Judge (in-person), City Sessions Court in Criminal Appeal no. 115 of of 2023 be quashed/set aside. The application filed by the petitioner before the learned Judge under Section 5 of the Limitation Act is allowed. The appeal is restored to its original file and number.

Learned Judge is directed to take the appeal to its logical conclusion within two months from the date of communication of this order, upon affording reasonable opportunity of hearing to both the parties and without granting any unnecessary adjournment to either of the parties, in accordance with law.

CRR of 1179 of 2024 is disposed of.

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

(Suvra Ghosh, J.)