

28.10.2025
Court No. 35
Item No.1
Rakib

CRA (SB) 52 of 2025
Subhas Chandra Sarkar
VS
State of West Bengal & Ors.

Mr. Subhas Chandra Sarkar
... Appellant-in-person
Mr. Rudradipta Nandy, A.P.P.
Mr. Dipankar Mahata
...for the State
Mr. Dipanjan Dutt
Mr. Sudipta Nayan Ghosh
Mr. Soumodip Ghosh
...for Respondent no.2
Mr. Sumanta Ganguly
...for Respondent no.3

The appellant who appears in-person has preferred an appeal against the order of acquittal under Section 372 of Cr.P.C. corresponding to Section 413 of BNSS, 2023.

The subject matter of appeal relates to the judgment and order dated 19.12.2024 passed by the learned Judicial Magistrate, 9th Court, Alipore in T.R. No. 847 of 2016 corresponding to CGR No. 567 of 2011 and arising out of Gariahat Police Station case no. 66 of 2011 dated 15.02.2011. The case was tried under Sections 304A/34 of the Indian Penal Code and two of the accused persons who were charged and faced the trial were finally acquitted by the learned Judicial Magistrate, 9th Court, Alipore.

The appellant has preferred the appeal before this Court, subsequently orders were passed. However, having considered the

provisions of Section 372 of the Cr.P.C. and Section 413 of BNSS wherein the proviso clause states as follows:

“413.*Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.***”**

I am of the opinion that the appellant has a right of appeal but the said appeal should be filed before the jurisdictional Sessions Court having authority to preside an appeal against the judgment and order of either conviction or acquittal passed by the learned Judicial Magistrate, 9th Court, Alipore.

Consequently, CRA (SB) 52 of 2025 is dismissed as not maintainable.

This Court has not gone into the merits of the appeal. If the appellant prefers an appeal before the learned Sessions Court, learned Sessions Court would consider the period of pendency of the appeal before this Court and proceed to decide the appeal on merits.

In case the Trial Court Records have been called, the same may be returned immediately to the learned Trial Court.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Tirthankar Ghosh, J.)