

11.09.2025
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CRR 1280 of 2013
With
CRAN 2 of 2022

In Re : An application under Sections 397/401 read with Section
482 of the Code of Criminal Procedure.

In Re : Swapan Kumar Ghoshpetitioner

Mrs. Chandreyi Alam
Mr. Anant Shaw
Ms. Runu Mukherjee
..... for the petitioner

Mr. Anirban Dutta
Mr. Shivam Bhimsaria
Mr. Akansha Singhanian
..... for the opposite party no. 1

Mr. Santanu Kumar Mitra
Mr. Amartya Pal
Ms. M. Jaiswal
..... for the opposite party no. 4

The instant revisional application is presented under Section 482 of the Code of Criminal Procedure, assailing the legality and propriety of the order dated 4th December 2012 passed in Case No. 856 of 2010.

Mrs. Alam, learned Advocate representing the petitioner, submits that the petitioner was illegally terminated from his service at M/s. Alliance Mills (Lessees) Ltd., Jagatdal, North 24-Parganas. Challenging his illegal termination, he filed an application seeking reference of the dispute before the Industrial Tribunal. The Industrial Tribunal passed an award directing the company to reinstate the petitioner, along with back wages and other service-related benefits, within a period of sixty days.

However, the petitioner was not reinstated in terms of the order within the specified time. Citing this breach of the terms of the award, a complaint was lodged before the learned Chief Judicial Magistrate, Barrackpore which was registered as Case No. 856 of 2010. Subsequently, the case was transferred to the learned Additional Chief Judicial Magistrate, Barrackpore, North 24-Parganas, for disposal.

Record reveals that on 4th December 2012, upon receipt of summons, the accused persons entered their appearance and pleaded guilty. Upon acceptance of their plea, a fine of Rs. 3,000/- each was imposed. The said order dated 4th December 2012 has been challenged on the ground that the punishment imposed upon the opposite parties was inadequate.

Mrs. Alam further submits that the punishment ought to have been commensurate with the gravity of the offence and in consonance with the letter and spirit of Section 29 of the Industrial Disputes Act.

Mr. Dutta, learned Advocate representing opposite party no. 1, vehemently opposes the contention advanced by Mrs. Alam. Referring to the provisions of Section 372 of the Code of Criminal Procedure (hereinafter referred to as the "Code"), he submits that Section 372 provides that no appeal shall lie from any judgment or order of a criminal court except as provided by this Court or by any other law for the time being in force. He further submits that, in view of the proviso to Section 372 of the Code, the petitioner is entitled to prefer an appeal against the order dated 4th December 2012 only to the extent or illegality of the sentence. Referring to subsections (4) and (5) of Section 401 of the Code, he submits that when the Court has prescribed a provision for appeal against any order, and no appeal is filed challenging that order, no proceeding by way of revision shall be entertained at the instance of

parties who could have appealed. Therefore, he submits that in view of the provisions of subsection (4) of Section 401 of the Code, this revisional application cannot be entertained. He further submits that even this revisional application cannot be converted into an appeal by taking recourse to subsection (5) of Section 401 of the Code.

Heard the learned Advocates appearing for the respective parties and perused the materials on record.

Undisputedly, the accused persons pleaded guilty. Such guilty plea was accepted by the court below, and a punishment by way of fine of Rs. 3,000/- each was imposed upon the accused persons. The petitioner is essentially aggrieved by the extent and/or legality of the sentence. Therefore, in view of the proviso to Section 372 of the Code, an appeal lies against the order dated 4th December 2012. In view of the provisions of subsection (4) of Section 401 of the Code, this revisional application cannot be entertained.

I find force in the submission of Mr. Dutta that taking recourse to subsection (5) of Section 401 of the Code, this revisional application cannot be converted into an appeal, and this Court cannot hear or decide this appeal because it cannot sit in appeal over the order of the Magistrate in which the convicted persons were punished with a fine of Rs. 3,000/- each.

In view thereof, this present revisional application is disposed of. In view of disposal of the appeal, the connected application being CRAN 2 of 2022 is also disposed of.

However, it is clarified that this order shall not preclude the petitioner from preferring an appeal challenging the order dated 4th December 2012, particularly with regard to the legality and/or extent of the sentence.

Needless to state, the period during which the present revisional application was pending before this Court shall be excluded from the computation of the period of limitation in accordance with the provisions of Section 14 of the Limitation Act.

The petitioner is at liberty to take back the certified copy of the order under challenge in this revisional application, subject to the deposit of a photocopy of the same.

(Partha Sarathi Chatterjee, J.)