IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR

CRR 2389 of 2017
With
CRAN 3 of 2018 (Old No. CRAN 324 of 2018)

Jyotsana Investments Company Limited
-Vs-
R. K. De

For the Petitioner : Mr. Soumya Nag

Hearing concluded on : 28.01.2026

Judgment on : 28.01.2026

UDAY KUMAR, J.: –

(ORAL)

1. This revisional application, filed under Section 482 of the Code of Criminal Procedure, 1973, is directed against the proceedings in Case No. C-1271 of 1986, currently pending before the Learned Metropolitan Magistrate, 4th Court, Calcutta. The petitioners seek the quashing of a criminal prosecution initiated by the Income Tax Department under Sections 276B(ii) and 278B of the Income Tax Act, 1961, relating to the alleged non-payment of Tax Deducted at Source (TDS) for the Assessment Year 1983-1984. The gravamen of the complaint pertained to the alleged non-payment of Tax Deducted at Source (TDS) for the Assessment Year 1983-1984, stemming from a search operation conducted as far back as 1983.

2. The procedural history of this litigation reveals a distressing trajectory of judicial inertia followed by misplaced zeal. The litigation is a vestige of a search operation conducted in 1983. In 1986, the Department filed approximately 54 criminal cases against the petitioner company and its directors. In 1988, a Division Bench of this Court stayed the proceedings pending the disposal of a compounding application filed by the petitioners.

3. In 2001, the Revenue Department quantified the compounding fee at Rs. 3,96,943/-, which was promptly paid by the Petitioner. Despite this substantive settlement and a subsequent fifteen-year period of judicial silence, the Trial Court inexplicably revived the matter in 2015. On April 27, 2016, the Learned Magistrate—erroneously concluding that no stay was subsisting—issued warrants of arrest and property attachment orders. Notably, a warrant was issued against Accused No. 3, Mr. P.N.K. Sharma, despite the fact that he was long deceased. Furthermore, the Court ordered property attachment even after the Petitioner paid an additional interest amount of Rs. 2,07,935/- on July 5, 2017, to exhaust all possible claims.

4. Mr. Soumya Nag, the learned Advocate of the petitioner submits that they had demonstrated complete financial compliance by satisfying both the primary compounding fee and an additional interest demand of Rs. 2,07,935/- paid on July 5, 2017. They contend that the Trial Court's refusal to stay the proceedings constitutes a contentious disregard of order of Division Bench of this High Court passed in 1988. Furthermore, the petitioners emphasize that the issuance of a warrant against a deceased individual and the attachment of an office for a debt already discharged reflects a reckless lack of judicial application of mind. They submit that criminal law is being utilized here not as a pursuit of justice, but as a tool of administrative harassment.

5. It is pertinent to note that despite multiple opportunities and repeated calls, the Opposite Party (Income Tax Department) has failed to appear or contest these proceedings. The record reflects that the Department has remained unrepresented on several prior occasions as well. In view of such prolonged litigative apathy from the Revenue, this Court deems it necessary to adjudicate the matter on its merits based on the available records, as the petitioners cannot be left in a state of perpetual legal limbo.

6. The legal rationale governing this case is rooted in the doctrine of compounding as envisaged under Section 279(2) of the Income Tax Act. Compounding is essentially a bilateral contract that, once satisfied, erases the criminality of the act. As established by the Hon'ble Supreme Court in *S.P. Sampathy v. Second Income-Tax Officer, (1986) 16 ITD 157 (Hyd),* once an offense is compounded, the prosecution loses its legal foundation.

7. Furthermore, the survival of this prosecution for forty years is a patent violation of the right to a speedy trial—a fundamental right guaranteed under Article 21 of the Constitution. As affirmed in *P. Ramachandra Rao v. State of Karnataka, (2002) 4 SCC 578,* a trial that outlives its participants and persists despite full financial restitution ceases to be a pursuit of law and becomes a "punishment by process."

8. The Trial Court's insistence on invoking Sections 82 and 83 of the Cr.P.C. for proclamation and attachment, particularly after the company's appearance through an authorized representative and the full settlement of dues, indicates a malfunction of the judicial machinery. In fiscal offenses where the exchequer has been satisfied through the recovery of tax, interest, and compounding fees, the public interest in continuing a criminal prosecution evaporates. Any attempt to revive such a trial—especially against deceased parties—constitutes a gross abuse of the process of law.

9. The issuance of a warrant against a dead person is a nullity in the eye of the law. It reflects a reckless lack of application of mind by the Trial Court.

10. The Trial Court's insistence on invoking Sections 82 and 83 of the Cr.P.C. for proclamation and attachment, particularly after the company's appearance through an authorized representative and the full settlement of dues, indicates a malfunction of the judicial machinery as the process was being utilized as a tool of harassment. In fiscal offenses, where the exchequer has been satisfied through the recovery of the tax, interest, and compounding fees, the public interest in continuing a criminal prosecution evaporates. Any attempt to revive such a trial—especially against deceased parties—constitutes a gross abuse of the process of law.

11. This Court is of view that in the event, a statutory compounding fee is accepted by the Revenue during the pendency of a stayed criminal proceeding, the offence is settled. Any subsequent attempt by a subordinate court to revive the trial on the grounds especially against deceased parties or after full financial restitution, constitutes an abuse of the process of law and a violation of the right to a speedy trial under Article 21 of the Constitution.

12. Accordingly, this Court finds that the continuation of Case No. C-1271 of 1986 is an exercise in futility and a waste of precious judicial time. A trial lasting four decades is a burden no court has the right to inflict without a conviction, which constitutes a grave miscarriage of justice. Criminal law is not a weapon to be used for the sake of exhaustion.

13. Accordingly, it is ordered that:

a) The entire proceedings in Case No. C-1271 of 1986 are hereby quashed and set aside.

b) All orders of attachment and warrants of arrest issued by the Learned Metropolitan Magistrate, 4th Court, Calcutta, are recalled and vacated with immediate effect.

c) The Opposite Party is directed to treat the compounding of the offence as finalized in light of the payments made.

d) The Officer-in-Charge of the concerned Police Station is directed to immediately cease all execution proceedings related to the attachment of the Petitioner's property.

14. The revisional application being CRR 2389 of 2017 is allowed.

15. CRAN 3 of 2018 (Old No. CRAN 324 of 2018) is also disposed of.

16. There shall be no order as to the cost.

17. The pending application or applications, if any, is disposed of accordingly.

18. Interim order, if any, shall stands vacated.

19. The Trial Court Record (TCR), if any, shall be sent down to the Trial Court, at once.

20. Case diary, if any, be returned forthwith.

21. Urgent photostat certified copy of this judgment, if applied for, be given to the parties upon compliance of all necessary formalities.

(Uday Kumar, J.)

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