

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA

Circuit Bench at Jalpaiguri
Appellate Side
CRIMINAL REVISIONAL JURISDICTION

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 104 of 2026

CRAN 1 of 2026

Smt. Laxmi Ghosh Dey

-vs-

The State of West Bengal & another

For the Petitioner : Mr. Debajit Kundu

For The State : Mr. Aditi Shankar Chakraborty,
Ld. APP
Mr. Aniruddha Biswas

Heard on : 24.03.2026

Judgment on : 24.03.2026

Jay Sengupta, J.:

This is an application challenging an order dated 19.09.2025 passed by the learned Additional Sessions Judge, Alipurduar in CRL (A) 19 of 2022.

Affidavit of service filed on behalf of the petitioner is taken on record.

Despite service, no one appears on behalf of the de facto complainant.

Learned counsel appearing on behalf of the petitioner submits that besides the lack of merits of the original judgment and order of conviction, the learned appellate Court dismissed the appeal for default as the petitioner could not appear before the learned Court on a particular day. It is not permissible for the Appellate Court to dispose of an appeal, except on merits. The delay that was caused in filing of the revisional application was due to certain unforeseen events like illness of the learned advocate of the petitioner. In the interest of justice, the delay may be condoned and the revisional application may be allowed.

Learned counsel appearing on behalf of the State

opposes the prayer for condonation of delay. However, he submits that a criminal appeal cannot be disposed of, except on merits. The learned Appellate Court could have appointed an Amicus and ought to have decided the appeal on merits.

Considering the submissions as advanced on behalf of the petitioner and the State and after going through the explanation provided in the application for condonation of delay, I am inclined to allow the application for condonation of delay.

The delay in filing the revision is condoned.

Heard the learned counsels on the question of the sustainability of the order passed by the Appellate Court.

It appears that the appeal was admitted on 04.08.2022. However, by an order dated 19.09.2025 passed by the learned Additional Sessions Judge, Alipurduar, the criminal appeal being CRL (A) No. 19 of 2022 was dismissed for default.

It is settled law that a criminal appeal cannot be

disposed of, except on merits.

The learned Appellate Court could have fairly appointed a State Defence or an Amicus. But, the Court ought to have decided the appeal on merits.

In view of the above, the impugned order dated 19.09.2025 is set aside and the matter is remanded back to the concerned learned Appellate Court for disposal of the same on merits.

With these observations and directions, the revisional application and the connection 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.)