

Calcutta High Court - Appellate side

Appellate side
Case Details

Case Type	: CRR		
Filing Number	: 4716/2023	Filing Date:	05-12-2023
Registration Number	: 4667/2023	Registration Date:	05-12-2023
CNR Number	: WBCHCA-057020-2023		

Case Status

First Hearing Date	: 08th December 2023
Next Hearing Date	: 02nd September 2024
Stage of Case	: FOR ORDERS 1
Coram	: 265780HON'BLE JUSTICE SUVRA GHOSH
Bench	: Single Bench
State	: West Bengal
District	: DINAJPUR UTTAR
Judicial	: CRIMINAL SECTION
Causelist Name	: Monthly List
Not Before Me	:

Petitioner and Advocate

1) KRISHNAPADA @ KRISHNA PADA SARKAR Advocate- RANOJOY CHATTERJEE
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Respondent and Advocate

1) STATE OF WEST BENGAL AND ANR

Acts

Under Act(s)	Under Section(s)
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Subordinate Court Information

Court Number and Name	: UTTAR DINAJPUR RAIGANJ DISTRICT JUDGE CJM
Case Number and Year	: T. R. CASE - 0000002 - 2010
Case Decision Date	: --
state	: West Bengal
District	: DINAJPUR UTTAR

IA Details

IA Number	Party	Date of Filing	Next Date	IA Status
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History of Case Hearing

Cause List Type	Judge	Business On Date	Hearing Date	Purpose of hearing
	HON'BLE JUSTICE TIRTHANKAR GHOSH		08-12-2023	NEW MOTION
Daily List	HON'BLE JUSTICE TIRTHANKAR GHOSH			LISTED MOTION
Daily List	HON'BLE JUSTICE TIRTHANKAR GHOSH		24-01-2024	MOTION 1
Daily List	HON'BLE JUSTICE TIRTHANKAR GHOSH		31-01-2024	MOTION 1
Daily List	HON'BLE JUSTICE TIRTHANKAR GHOSH		01-02-2024	MOTION 1
Monthly List	HON'BLE JUSTICE TIRTHANKAR GHOSH		05-02-2024	MOTION 1
Monthly List	HON'BLE JUSTICE TIRTHANKAR GHOSH		04-03-2024	MOTION 3
Daily List	HON'BLE JUSTICE TIRTHANKAR GHOSH		21-03-2024	MOTION 2
Daily List	HON'BLE JUSTICE TIRTHANKAR GHOSH			MOTION 2
Monthly List	HON'BLE JUSTICE SUVRA GHOSH		02-09-2024	FOR ORDERS 1

Orders

Order Number	Order on	Judge	Order Date	Order Details
1	CRR/4667/2023	HON'BLE JUSTICE TIRTHANKAR GHOSH	12-12-2023	
2	CRR/4667/2023	HON'BLE JUSTICE TIRTHANKAR GHOSH	21-03-2024	

Category Details

Category	GROUP C (CRIMINAL MATTERS) (3)
Sub Category	Exercise of inherent power u/s 482 Cr. P. C. (40)

OBJECTION

Sr.No.	Scrutiny Date	OBJECTION	Compliance Date	Receipt Date
1	05-12-2023	All Objections are Complied	--	--

12.12.2023
Item No.306
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 4667 of 2023

In the matter of : **Krishnapada @ Krishna Pada Sarkar**
... Petitioner.

Mr. Ranojoy Chatterjee,
Ms. Piyeta Bhattacharjee,
Mr. T. Singha Roy,
Mr. T. Pramanick ... For the Petitioner.

The petitioner is directed to file supplementary affidavit
in respect of the prayer which is orally being advanced before
this Court.

List the revisional application under the same heading
in the monthly list of January 2024.

(Tirthankar Ghosh, J.)

21-03-2024
Subha
Item no. 99
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 4667 of 2023

Krishnapada @ Krishna Pada Sarkar
-versus-
The State of West Bengal and Anr.

Mr. Ranojoy Chatterjee
Mr. Tamal Singha Roy
....for the petitioner.

Supplementary affidavit along with the copy of the present revisional application be served on Mr. Arijit Ganguly, learned advocate who ordinarily appears on behalf of the State. His appearance may be regularized by the concerned Authorities in due course.

Learned Public Prosecutor is directed to appear in this revisional application. A report may be called for on the prayer so advanced.

Matter be listed under the heading "For Orders" in the monthly list of May, 2024.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J.]

21-03-2024
Subha
Item no. 99
Ct no.34

*IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction*

CRR 4667 of 2023

**Krishnapada @ Krishna Pada Sarkar
-versus-
*The State of West Bengal and Anr.***

Mr. Ranojoy Chatterjee
Mr. Tamal Singha Roy
...for the petitioner.

Supplementary affidavit along with the copy of the present revisional application be served on Mr. Arijit Ganguly, learned advocate who ordinarily appears on behalf of the State. His appearance may be regularized by the concerned Authorities in due course.

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All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J.]

12.12.2023
Item No.306
Cl.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 4667 of 2023

In the matter of : **Krishnapada @ Krishna Pada Sarkar**
... Petitioner.

Mr. Ranojoy Chatterjee,
Ms. Piyeta Bhattacharjee,
Mr. T. Singha Roy,
Mr. T. Pramanick ... For the Petitioner.

The petitioner is directed to file supplementary affidavit
in respect of the prayer which is orally being advanced before
this Court.

List the revisional application under the same heading
in the monthly list of January 2024.

(Tirthankar Ghosh, J.)

IN THE MATTER OF:

Krishnapada @ Krishna Pada Sarkar, son of
Late Gourpada Sarkar, residing at Raiganj
Tulsipara, Post Office and Police Station-
Raiganj, District- Uttar Dinajpur, West
Bengal, PIN-733134.

.....Petitioner

VERSUS

1. The State of West Bengal;
2. The District Magistrate-cum-Collector,
Uttar Dinajpur having his office at Karnajora,
Post Office- Karnajora, Raiganj, District- Uttar
Dinajpur, West Bengal, PIN- 733130.

.....Opposite Parties

To

The Hon'ble T.S. Sivagnanam, Chief Justice and His Companion Justices of
the said Hon'ble Court.

The humble petition on behalf of the
Petitioner named above;

MOST RESPECTFULLY SHEWETH:

1. That your Petitioner is a respectable and law-abiding citizen of India. The Petitioner is a permanent resident at the address as mentioned in the cause title hereinabove and by profession the petitioner is a Chartered Accountant having his own firm by the name M/S K.P. Sarkar and Co. having its office at 1 Number Mill Campus, Nisith Sarani, Raiganj, District- Uttar Dinajpur, West Bengal, PIN-733134.
2. That this instant application has been preferred with regards to the delay in disposal of T.R. Case No. 02/2010 corresponding to GR Case Number 623/2001 under Sections 467/468/471/477A/120B/420/409 of the Indian Penal Code, 1860 presently pending before the Court of Learned Additional Sessions Judge, 1st Court-cum-Judge Special Court (NDPS ACT), Raiganj, District- Uttar Dinajpur, West Bengal (hereinafter to be referred to as impugned proceedings)
3. That the fact of the case is that though there is no trace of any Formal First Information Report filed as a result of which the impugned proceedings originated but as per the final Judgment dated 26th June, 2020 as passed by the Learned Trial Court it could be deciphered that the opposite party number 2 lodged a complaint as a result of which vigilance enquiry started under his own superintendence as because the office of the opposite party number 2 is the head of the Vigilance Unit of the District. It was also mentioned in the Judgment dated 26th June, 2020 that de facto a written complaint was lodged by the then Chief Medical Officer of Health (CMOH), Uttar Dinajpur but later on the Investigating Officer belonging to the Anti-Corruption and Vigilance Unit had arraigned him as an accused person as a result of which the Learned Trial Court deemed his complaint as a statement under Section 161 of the Code of Criminal Procedure, 1973 thereby observing that the true de-facto complainant might have been the opposite party number 2 and not the CMOH, Uttar Dinajpur as a result of which the opposite party number 2 has been impleaded as a party and not the CMOH.

The allegation was that the CMOH, his Upper Division Clerk (UDC) who maintained the cash register under the guidance of the CMOH from the period of 27th March, 1995 to 30th October, 1998 committed acts of corruption which included malpractices like overwriting of amounts, erasing of amounts, making interpolation on the amount of the cash register without any authentication of the authorities of a Society known by the name District Leprosy Society which received funds from the Central Government for the purpose of providing medical arrangement for leprosy patients and the same was under the Chairmanship of the District Magistrate and the CMOH was its Member-Secretary. In the original Complaint no allegation was made against the petitioner but during investigation of the Anti Corruption unit, the name of the petitioner came to the fore.

A copy of the Judgment dated 26th June, 2020 is annexed herewith and marked as "P-1".

4. That the petitioner furthermore states that his firm was engaged as an Auditor by the stakeholders of the District Leprosy Society and he formulated an Audit Report based upon the books of accounts and the Statements as provided to him by the management of the Society and the said Audit Report was nothing more than his opinion with regards the same. After the investigation was completed the Investigating Officer filed a Charge Sheet against the CMOH, his UDC as well as the petitioner and the allegation pertaining to the petitioner was that he and the UDC of the CMOH conspired with each other as a result of which the true picture of the acts of corruption could not be deciphered from the audit report. One of the Sections in the Charge Sheet was 409 as a result of which the Learned Chief Judicial Magistrate, Uttar Dinajpur had transferred the case to the Court of Learned Additional Sessions Judge, 1st Court-cum-Judge Special Court (NDPS ACT), Raiganj, District- Uttar Dinajpur, West Bengal for disposal and finally after which the case number changed to T.R. 02 of 2010 from G.R. 623 of 2001

and charges were framed under Sections 468/409/120B of the Indian Penal Code, 1860. In the meantime the then CMOH died as a result of which his UDC and the petitioner faced Trial after pleading not guilty and the said trial took place for an extensive period of time wherein six witnesses were examined and cross-examined but the Investigating Officer did not appear for his examination and eventually a Judgment was passed by the said Trial Court on 26th June, 2020 thereby acquitting the petitioner and the other accused person on account of benefit of doubt but there were certain incorrect and erroneous facts mentioned in the said Judgment as a result of which the petitioner filed a petition for rectification of the said Judgment on 5th February, 2021.

5. That the petitioner states that the case record was put up vide a Put Up Petition on 28th June, 2022 (The delay was due to the ill health of the petitioner as a result of the Coronavirus Pandemic and also due to the lack of proper functioning of Courts due to the Pandemic) and a copy of the petition was also served upon the other side after which the petition was admitted and the next date was fixed on 3rd September, 2022 for hearing of the same but from that date the hearing of the Petition for rectification did not take place and very long dates were given for the hearing like 29th November, 2022, 17th August, 2023 and thereafter on 30th September, 2024. The most important fact to be stated is that on 17th August, 2023 which was the last date fixed, the petitioner filed a petition for early hearing and disposal of the Petition for Rectification but even after the same was filed yet even longer date is fixed on the ground of heavy congestion in the Presiding Officer's diary which according to the petitioner is unjustified and excessive and without the interference of This Hon'ble Court, the hearing and disposal of the Petition for rectification would never end and year long dates would be fixed tantamounting to a delay in delivery of Justice. In such circumstances, the petitioner is filing this instant Criminal Revisional Application so that the Case Record of T.R. Case Number 02 of 2010 which was initially disposed of

on 26th June, 2020 vide a Judgment of Acquittal and subsequently put up vide a Petition for rectification of the said Judgment is disposed of as expeditiously as possible for the interests of justice.

A server Copy of the Order dated 17th August, 2023 is annexed herewith and marked as "P-1".

6. Being aggrieved and dissatisfied by the delay in the disposal of T.R. Case No. 02/2010 corresponding to GR Case Number 623/2001 under Sections 467/468/471/477A/120B/420/409 of the Indian Penal Code, 1860 presently pending before the Court of Learned Additional Sessions Judge, 1st Court-cum-Judge Special Court (NDPS ACT), Raiganj, District- Uttar Dinajpur, West Bengal, the petitioner files this Criminal Revisional Application before this Hon'ble Court on the following:

: G R O U N D S :

- I. For that the Learned Court failed to take into consideration the fact that the impugned proceedings were initially disposed of and only a petition for rectification of the Judgment has been filed and if the same is also heard and an Order is passed it would fully and finally dispose of the proceedings but still it is kept pending for more than two years and the same is increasing the agony of the petitioner.
- II. For that the Learned Court failed to take into consideration that the prayer for rectification of a Judgment is an innocuous one and does not require a number of hearings thereby keeping it pending for so long is a travesty of justice.

- III. For that the petitioner even filed a petition for early hearing of the petition for rectification of the Judgment but even that was denied and an extremely long date was fixed thereafter.
- IV. For that the delay in the disposal of the impugned criminal proceedings is otherwise bad in law and the same is liable to be set aside.
7. That this application is made bona fide and for the ends of justice.

In the circumstances it is prayed that Your Lordships may graciously be pleased to pass a direction and/or directions for expeditious disposal and/or hearing of T.R. Case No. 02/2010 corresponding to GR Case Number 623/2001 under Sections 467/468/471/477A/120B/420/409 of the Indian Penal Code, 1860 presently pending before the Court of Learned Additional Sessions Judge, 1st Court-cum-Judge Special Court (NDPS ACT), Raiganj, District- Uttar Dinajpur, West Bengal and pass such other directions/orders as Your Lordships may deem fit and proper.

And for this act of kindness your Petitioner as in duty bound shall ever pray.

I, the undersigned, being a duly qualified Advocate, do hereby certify that the contents of the above affidavit are true and correct to the best of my knowledge and belief and the contents contained therein are true and correct to the best of my knowledge and belief and the contents contained therein are true and correct to the best of my knowledge and belief.

Subscribed and sworn to before me on this _____ day of _____, 2023.

Commissioner
Uttar Dinajpur District
Raiganj

Subscribed and sworn to before me,
On this _____ day of _____, 2023.

COMMISSIONER

I hereby declare that all Affidavits
are legal.

AFFIDAVIT

I, Krishnapada @ Krishna Pada Sarkar, son of Late Gourpada Sarkar, aged about 67 years, by faith- Hindu, by occupation- Self Employed, permanently residing at Raiganj Tulsipara, Post Office and Police Station- Raiganj, District- Uttar Dinajpur, West Bengal, PIN-733134 do hereby solemnly affirm and say as follows:-

1. That I am the petitioner in this instant case and am well acquainted with the facts and circumstances of this case. I am competent to swear, sign and affirm this affidavit.

In application under Section 143 read with Section 142 of the Code of Civil Procedure, 1908.

2. The statements contained in paragraphs 1 to 5 are true to the best of my knowledge and belief and the statements contained in paragraphs 6 and 7 are my respectful submission before this Hon'ble Court.

Prepared in my office,

The deponent is known to me

Advocate.

Advocate.

Enrolment Number: F/828/757/2018

Solemnly affirmed before me,

On this day of December, 2023.

COMMISSIONER

I certify that all Annexures
are legible.

Advocate

DISTRICT: UTTAR DINAJPUR
IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL
JURISDICTION
APPELLATE SIDE

C.R.R. NO. OF 2023

IN THE MATTER OF:

An application under Section 483 read
with Section 482 of the Code of
Criminal Procedure, 1973.

AND

IN THE MATTER OF:

Krishnapada @ Krishna Pada Sarkar

.....Petitioner

VERSUS

The State of West Bengal and Another

...Opposite Parties

APPLICATION

Ranojoy Chatterjee
Advocate
High Court, Calcutta
Chamber: EE-121/2, Sector-II, Salt
Lake, Kolkata- 700091.
Mob: 6290415247
Email: advranojoy@gmail.com
Enrolment No: F/828/757/2018

DISTRICT: UTTAR DINAJPUR

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

C.R.R. NO. OF 2023
IN THE MATTER OF:

An application under Section 483 read
with Section 482 of the Code of
Criminal Procedure, 1973.

AND

IN THE MATTER OF:

Krishnapada @ Krishna Pada Sarkar

.....Petitioner

VERSUS

The State of West Bengal and Another

...Opposite Parties

LIST OF DATES

- 26.06.2020 : The Judgment was passed by the Trial Court which was sought to be rectified by the petitioner by filing a rectification petition.
- 28.06.2022 : The Petition for rectification was admitted.
- 17.08.2023 : The last date fixed for hearing of the petition for rectification.
- 30.09.2024 : The Next date fixed for hearing of the petition.

SYNOPSIS

The opposite party no. 2 filed the impugned proceedings detailed T.R. Case No. 02/2010 corresponding to GR Case Number 623/2001 under Sections 467/468/471/477A/120B/420/409 of the Indian Penal Code, 1860 presently pending before the Court of Learned Additional Sessions Judge, 1st Court-cum-Judge Special Court (NDPS ACT), Raiganj, District- Uttar Dinajpur, West Bengal but the same was initially disposed of through the Judgment dated 26th June, 2020 thereby acquitting the petitioner who was not initially an FIR named accused person but was implicated through the filing of the Charge Sheet. The petitioner after reading the Judgment unearthed that there were many factually incorrect information mentioned in the said Judgment which went against him as a result of which he filed a Petition for rectification of the said Judgment and the same was admitted on 28th June, 2022 thereby giving the impugned proceedings a new lease of life but unfortunately even after close to two years have passed but the petition

for rectification was not heard and exorbitantly long dates are given on the pretext that there is heavy congestion in the diary of the Presiding Officer. The last date was fixed on 17th August, 2023 for hearing on which the petitioner filed a petition for early hearing of the petition for rectification but the same was disallowed and the next date has been fixed on 30th September, 2024 thereby causing grave agony upon the petitioner as a result of which this instant Criminal Revisional Application is filed before This Hon'ble Court.