

13.8. 2025
item No.24
n.b.
ct. no. 24

WPA 2578 of 2025

**with
IA CAN 1 of 2025**

Mowsumi Khatun

Vs.

State of West Bengal & Ors.

Mr. Mowsumi Khatun,
Mr. Manas Kumar Chakraborty,
..... for the petitioner.

Ms. Sonal Sinha,
Ms. Ashmita Chakraborty,
..... for the State respondent.

Mr. Krishnendu Banerjee,
Mr. D. Chakraborty,
.... For Mr. Iddrish.

In Re. IA CAN 1 of 2025

This is an application for recalling of an order dated February 26, 2025 passed by this Court in WPA 2578 of 2025.

It is the contention of the petitioner that the petitioner was proceeding with this writ petition but suddenly came to know that the writ petition was disposed of as not pressed on instruction of the petitioner. By such way, this Court has disposed of the writ petition on February 26, 2025.

It is the contention of the petitioner that she has not instructed his advocate on record to “not press” writ petition. By filing of this application being CAN 1 of 2025 through affidavit, the petitioner has prayed before this Court that the writ petition may be revived.

Learned counsel appearing on behalf of the writ petition has also placed on record the judgment of Hon'ble Supreme Court passed in **Mahabir & Ors. Vs. State of Haryana** passed in Criminal Appeal No. 5560 of 2024 wherein the paragraph 96, the Hon'ble Supreme Court has held that client should not be suffered for mis-instruction of lawyer.

The State has filed affidavit-in-opposition against the application being CAN 1 of 2025 and contended that once the writ petition was "not pressed" at the instruction of the petitioner, the same writ petition cannot be revived by way of an application. The contention of the State respondent is that the petitioner cannot allowed to dispose of the writ petition and again to revive the same.

The application was served upon earstwhile learned advocate on record Mr. Idrish. One statement is made before this Court on behalf of the learned senior advocate Mr. Idrish, through affidavit was sworn before the Notary public. Necessary leave is granted to accept the said Notary affidavit and it be taken on record.

It is the contention of the learned senior counsel, Mr. Idrish that after considering the merit of this matter and subsequent events (Mr. Idrish) he advised that it would be prudent for the petitioner to "not press" writ petition and file a separate writ petition on the basis of same facts and prayer, which would be benefited for the

petitioner. On such advice, the junior of Mr. Idrish has submitted before this Court on February 26, 2025 that the petitioner does not want to proceed further with the writ petition. However, the petitioner has changed his mind, so it is the statement of Mr. Idrish this Court may take any decision according to law.

Having heard the entire facts and circumstances of the case and considering the affidavit as well as the affidavit submitted on behalf of Mr. Idrish, erstwhile advocate on record, it appears that the order passed by this Court on February 26, 2025 is under instruction of the petitioner. Being an advocate on record, Mr. Idrish has advised to “not press” the writ petition. However, such advice appears to be not satisfactory, later on, to the petitioner. Thus, the instant application has been filed.

Having heard the entire circumstances and considering the fact that petitioner IS in intention to proceed with this matter and the affidavit was made on behalf of petitioner before this Court, so this Court has to accept the affidavit of the petitioner. Accordingly, I think it necessary that the application being CAN 1 of 2025 should be allowed. Let the application for recalling of the order dated February 26, 2025 is considered and allowed. The order dated February 26, 2025 is hereby recalled. The order of disposal of the writ petition being WPA 2578 of 2025 is hereby set aside.

The WPA 2578 of 2025 be revived to its original file and number.

The petitioner is directed to serve upon the respondents regarding revival of the writ petition and file affidavit of service to this Court.

Let the matter go out of list.

Parties are at liberty to mention.

Md. Idrish, learned advocate on record appeared on behalf of the petitioner wishes to retire from the brief. Let submissions on behalf of Md. Idrish be accepted.

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

(Subhendu Samanta, J.)