

**29.08.20
25
Court
No. 07
Item No.
14**

**CRR 2340 of 2023
CRAN 1 of 2025**

**In Re:- An application under Section 401 read with Section 482
of the Code of Criminal Procedure, 1973;**

and

Ab

In the matter of : **Kamal Roy.**

...Petitioner.

**Mr. Biplab Mitra,
Ms. Trina Mitra.**

...For the petitioner.

**Ms. Manisha Sharma, Ld. JGA,
Mr. S. Balial.**

...For the State.

Re: CRAN 1 of 2025

1. This application has been filed with a prayer for recalling the order dated 7th February 2019 passed in CRR 2340 of 2023, upon condonation of the delay in filing the application.
2. Mr. Mitra, learned Advocate appearing on behalf of the petitioner, submits that the revisional application, CRR 2340 of 2023 was preferred challenging the order dated 7th August 2023 passed by the learned Additional Sessions Judge, 1st Court, Jalpaiguri, in Criminal Appeal No. 6 of 1998, arising out of the order dated 27th February 1998 passed by the learned Assistant Sessions Judge, Alipurduar, in Sessions Case No. 9 of 1997. He submits that by the judgment dated 27th February 1998, the accused person was convicted for the commission of offences punishable under Sections 498A and 306 of the Indian Penal Code. The order impugned in this revisional application affirms the judgment of conviction and the order of sentence.
3. Mr. Mitra further submits that, by an order dated 22nd October 2023, the

operation of the order dated 7th August 2023 and the realization of fine imposed by the learned Trial Court were stayed until disposal of the revisional application.

4. He contends that the matter was suddenly placed in the list on 7th February 2019, and the learned Advocate previously engaged to represent the petitioner inadvertently missed the list. Consequently, the revisional application was dismissed for default. He further submits that the petitioner was not aware of this fact. In the meantime, a warrant of arrest was issued, and it was only when the concerned police officials attempted to execute the warrant that the petitioner came to know that the revisional application had been dismissed for default.
5. Faced with this situation, the petitioner has been compelled to file the present application. He also submits that the order be recalled and the matter be placed for final hearing.
6. Ms. Sharma, learned Advocate appearing on behalf of the State, has left the matter to the discretion of the Court.
7. Having heard the learned Advocates appearing for the respective parties and upon perusal of the averments made in the application, I am satisfied with the explanation offered for the absence of the learned Advocate in Court on 7th February 2019, when the matter was dismissed for default.
8. Accordingly, in exercise of the inherent powers of this Court, the order dated 7.2.2019 is recalled. Let the revisional application, being CRR 2340 of 2003, be restored to its original file and number.
9. The application being CRAN 1 of 2025 is, thus, disposed of.
10. List the matter for further consideration one week after ensuing Puja Vacation for the year 2025.

11. Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Partha Sarathi Chatterjee, J.)