



2021:CHC-AS:35029

04.08.2025
M/L 83
Ct. No.446
Saikat

CRR/2066/2010
with
IA NO: CRAN/2/2025
with
CRAN/3/2025

ALOKE GOENKA & ANR.
VS.
GANGA DUTT PARMOD KUMAR & ANR.

Mr. Avik Ghatak, Adv.
Ms. Afreen Begum, Adv.

...For the Petitioner No.1

Mr. K.C. Gara, Adv.
Ms. Sunita Agarwal, Adv.

...For the O.P. No.1

1. Affidavit-of-service filed by the learned advocate appearing for the Petitioner No.1 is kept with the record.
2. CRAN 3 of 2025 filed by the Petitioner No.1 for condonation of delay of 1090 days in preferring the restoration application in connection with CRR 2066 of 2010 which was dismissed for default in the year 2021.
3. Mr. Ghatak, the learned advocate, appearing before this Court submits that he is representing only the Petitioner No.1, namely, Alope Goenka. The learned advocate further submits that the Petitioner No.1 is willing to pay the amount for which the order of conviction was passed and has prayed for stay of warrant of arrest which is pending for execution. So far as the inordinate delay in fling the restoration application is concerned, the learned advocate for the Petitioner No.1 has strenuously tried to convince the Court that there was no latches on the part of the petitioner No.1 and it was not done intentionally.



4. Mr. Agarwal, the learned advocate appearing on behalf of the Opposite Party No.1 has filed affidavits-in-opposition to the applications filed by the Petitioner No.1 and raises vehement objection regarding the long delay in filing the restoration application as well as the long pendency of the matter thereby he has been highly prejudiced.
5. At the outset, it may be said that the Petitioner No.1 has failed to satisfy the Court with regard to such unwarranted delay in filing the restoration application. Since the proceeding is under section 138 of the Negotiable Instruments Act, considering the submission made on behalf of the parties, the long pendency of the matter since 2010 and having a chequered history, this Court is of the opinion, if the matter can be sent before the Mediation Committee, it would subserve the purpose since there is an element of settlement. Therefore, the application for condonation of delay be kept pending.
6. The department is directed to send the entire case record along with this order to the learned Mediation Committee. The learned Member Secretary of the Mediation Committee is directed to take all necessary steps in this regard at an earliest.
7. At this stage, considering the facts and circumstances of the case and the agreement of settlement exists in this case, the warrant of arrest pending for execution be stayed in respect of the Petitioner No.1, namely, Alope Goenka till 31st August, 2025.
8. The matter is returnable on 27th August, 2025, or soon thereafter when this Bench will sit for considering the report of the Mediation Committee.

[Chaitali Chatterjee (Das), J.]