

(2012) 04 CAL CK 0084

In the Calcutta High Court

Case No : C.R.R. No. 2287 of 2011 with CRAN No. 1460 of 2011

Sankar Roy

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision : 16-04-2012

Acts Referred:

Citation : (2017) 345 ELT 111

Hon'ble Judges : Joymalya Bagchi, J.

Bench : Single Bench

Advocate : Shri Rudradipta Nandy and Upendra Roy, Counsels, for the Petitioner

Final Decision : Disposed Off

Judgement

Joymalya Bagchi, J.—Heard the learned Lawyer for the petitioner.

2. The learned Lawyer for the petitioner assails an order dated 28-2-2011 passed by the Learned Metropolitan Magistrate, 5th Court, Calcutta in Case No. C-2248 of 2003 wherein his prayer to return the seized gold bars were turned down.

3. The learned Lawyer for the petitioner submits that the Collector of Customs under the provisions of the Customs Act pursuant to an adjudication permitted return of the seized gold bars to the petitioner on payment of redemption fine. He submits documents before this Court that such redemption fine has already been paid. He, therefore, submits that the seized gold bars cannot be forfeited to the State and he is entitled to return of the seized gold bars pending trial of the instant case.

4. I have considered the submissions of the petitioner and have also gone through the materials on record.

5. I find that the seized gold bars have already been exhibited in the instant case as material exhibits.

6. Rule 170 of the Calcutta High Court Criminal (Subordinate Courts) Rules, 1985

reads as follows :

"R. 170. - No article, admitted in evidence shall, subject to the provisions of section 452 of the Code, be returned or destroyed until the appeal has been disposed of or where no appeal is preferred, until six months after the period of appeal has expired."

7. The aforesaid Rules have been framed by this Court, inter alia, in its supervisory jurisdiction under Article 227 of the Constitution of India and has the force of law.

8. I am loath to exercise my inherent powers contrary to an embargo as provided under the said Rules. However, it is a fact that the petitioner has paid the redemption fine for the seized gold bars and therefore such gold bars cannot be forfeited to the State even at the conclusion of trial.

9. Under such circumstances, I direct the Learned Magistrate to dispose of the criminal proceeding as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

10. Upon conclusion of the proceeding, the learned Magistrate shall dispose of the seized gold bars which are exhibited in the instant case in accordance with law, bearing in mind the fact that the petitioner has already paid redemption fine in respect of the said seized gold bars and the same cannot stand forfeited to the State.

11. With the aforesaid direction, the instant revisional application being CRR 2287 of 2011 and CRAN 1460 of 2011 are disposed of.

12. Criminal Section is directed to supply certified copy of this order to the parties as quickly as possible.