

D/L17  
30.06.2023

C.R.R.2318 of 2023

Bpg. In Re: An application under Section 482 of the Code of Criminal Procedure, 1973;

Sri Mukti Prasad Toong @ Mukti Prakas Toong  
Versus  
The State of West Bengal and another

Mr. Subhrangshu Panda  
Ms. Mithu Singha Mahapatra  
Mr. Debattam Das  
...for the petitioner.

Ms. Sreyashee Biswas.  
...for the KMC.

Report submitted by the Executive Engineer (Civil), Br.-VII, Building Department, KMC be kept with the record.

Report reflects that the present petitioner is innocent of the consequences which resulted due to non-appearance before the learned trial court and there were satisfactory explanations.

The order dated 14.09.2022 passed by the learned Senior Municipal Magistrate, Kolkata is as follows:

“The Commissioner, Kolkata Municipal Corporation is further directed to put the said officer/Assistant Engineer Mukti Prasad Toong under order of immediate suspension as he is an absconder and is evading the process of the Court.”

In view of the directions passed by the learned Senior Municipal Magistrate, Kolkata in its order dated 14.09.2022 and the subsequent conduct of the present petitioner, I am of the view that the order so passed by the Senior Municipal Magistrate, Kolkata requires interference.

The petitioner has appeared before the court. The warrant of arrest has been recalled and it was because of promotion and shifting to another department, notice/process was not served upon the petitioner and as such he had no intention to evade the process of the court as it transpires from the record.

That being so part of the order as stated above wherein the recommendation was made for suspension of the present petitioner declaring him to be absconder and put him under immediate suspension is set aside. Consequently, the order passed by the Additional District and Sessions Judge, Fast Track, First Court, Calcutta (Chief Judge-in-Charge) on 17.04.2023 in Criminal Revision No.207 of 2022 is also set aside.

The subject matter of the revisional application being restricted to the issue relating to suspension being decided in favour of the present petitioner, the revisional application being CRR 2318 of 2023 is allowed.

Pending application, if any, is consequently disposed of.

Petitioner is granted liberty to communicate this order to the learned trial court.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

**(Tirthankar Ghosh, J.)**

