

THE HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

Criminal Petition. 64 of 2014

1. Sri Raghubir Debbarma,
S/o Late Satish Ch. Debbarma,
Resident of Town Indranagar,
P.O. Abhoynagar, P.S. East Agartala,
Dist - West Tripura.

..... *Petitioner.*

- Vs -

1. The State of Tripura.
2. Md. Muzaffor Alam Sekender,
S/o Late Kala Miah,
7/3/A Officer's Quarters Lane, Krishnanagar,
P.O. Agartala, P.S. West Agartala,
Distt. - West Tripura.

..... *Respondents.*

_B_E_F_O_R_E_

THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA

For the petitioner : Mr. S S Debnath, Advocate.

For the respondents : Mr. D Deb, Advocate.

Date of hearing
and delivery of judgment : 04.03.2015.

Whether fit for reporting : No.

JUDGMENT & ORDER(ORAL)

This petition under Section 482 of the Criminal Procedure Code is directed against the order, dated 22nd August, 2014 whereby the request made by the petitioner for adjournment of the case to permit him to produce his evidence in defence has been rejected.

2. The undisputed facts are that the respondent No.2 herein filed a complaint against the present petitioner under Section 138-A of the Negotiable Instruments Act, 1881. The complaint was filed in

October, 2011 and thereafter, notice was issued to the petitioner-accused. The complainant thereafter filed his evidence by way of affidavit and I find that on various occasions dates were granted by the learned Magistrate, sometimes at the request of the complainant, sometimes at the request of the accused and sometimes at the request of both the parties.

3. On 21st May, 2014 examination of the complainant was completed and the matter was listed on 16th June, 2014 for examination of the accused under Section 313 Cr.P.C. On this date, request was made for adjournment on behalf of the defendant (*petitioner-accused*) and the matter was adjourned to 8th July, 2014. The accused was examined under Section 313 Cr.P.C on 22nd July, 2014. The matter was then adjourned to 22nd August, 2014 for recording the defence witnesses, if any and on this date, the request made by the defendant for grant of adjournment was rejected and the evidence of the defendant was closed. While closing the evidence the learned Magistrate held that since the case has been pending since the year 2011 and substantial opportunities have been given to both the sides he cannot give a further date.

4. I fail to understand this portion of the order. The right of the defendant in a criminal case to lead evidence will arise only after his statement under Section 313 Cr.P.C is recorded. After recording the defendant's statement under Section 313 Cr.P.C the Court may not even find it a fit case to proceed further. Therefore, actually only one date was given to the defendant and I am of the view that on the first date his evidence should not have been closed. In this view of the matter, the

impugned order is set aside and the learned Magistrate is directed to give reasonable opportunity but not more than two more opportunities to the defendant to put forth his evidence if any.

5. The parties are directed to appear before the learned Additional Chief Judicial magistrate, West Tripura, Agartala on 30th March, 2015. Registry is directed to ensure that the lower court record is sent well before the next date. The Magistrate shall ensure that the case is fixed for evidence of the defendant in the week commencing 20th April, 2015 and if the defendant asked for another date, the matter shall be listed in the week commencing 27th April, 2015 and the matter must be disposed of latest by 30th May, 2015.

6. The petition is disposed of.

CHIEF JUSTICE

Sukhendu