

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

CRR 1710 of 2020

Kamal Mohanty
Vs.
The State of West Bengal & Anr.

For the Petitioner : Mr. Pradi Tarafdar
Mr. Satudra Lahiri

For the Opposite Party no. 2 : Mr. Srinjay Sengupta
Mr. Narattam Acharyya

Heard on : 22.12.2020

Judgement delivered on : 22.12.2020

Jay Sengupta, J. :

The petitioner is challenging an order dated 21.11.2020 passed by the learned Additional Chief Judicial Magistrate, Contai, Purba Medinipur in CR Case No. 323 of 2016 under Section 138 of Negotiable Instruments Act, thereby fixing 5th December, 2020 as the last chance for adducing evidence on behalf of the defence.

On 7.12.2020 this Court had granted liberty to the petitioner to pray for an adjournment before the learned trial Court on the next date

i.e. on 14.12.2020. On the petitioner's prayer, the learned trial Court was pleased to fix 24.12.2020 as the next date.

Learned counsel appearing for the petitioner submits as follows. On 21.11.2020 an application was filed on behalf of the accused/petitioner stating that the witness was suffering from Hepatitis and was prescribed bed rest for four weeks. The accused/petitioner prayed that, accordingly, a date may be fixed after the said period. Yet the learned trial Court adjourned the proceeding only after imposing a cost on the accused and fixed 5.12.2020 as the last chance to adduce defence evidence. On 5.12.2020, the learned trial court fixed 14.12.2020 as the next date. In the interest of justice, a fair opportunity should be granted to the defence to produce its witnesses and accordingly, a date may be fixed sometime after 20th December, 2020. In fact, the defence has two witnesses to be examined. They stay at different places and summons has been issued only in respect of one of the said two defence witnesses. It is germane to mention that the present petitioner was not responsible for any delay in conducting of the proceeding.

Learned counsel appearing on behalf of the complainant/opposite party submits as follows. The accused/petitioner was primarily responsible for protracting the proceeding under section 138 of the Negotiable Instruments Act. Although the complainant would not come in the way if a time-bound opportunity is given to the defence

to produce its witnesses. However, a direction may be passed so that the proceeding is expedited.

I have heard the submissions of the learned counsels for the parties and have perused the revision petition.

The difficulty that the petitioner had in adducing evidences has already been addressed and the date is now fixed after the 20th December, 2020.

Let the first witness for the defence in respect whom summons has already been issued be examined on 24th December, 2020. That is the last chance that the defence would get for adducing such evidence.

Learned trial court may be pleased to fix another date in the month of January, 2021 for examining the other witness supposed to be produced by the defence.

The learned court is requested to thereafter conclude the proceeding as expeditiously as possibly without granting any unnecessary adjournment to any of the parties and keeping in mind the statutory stipulation contained in the said Act about expeditious conclusion of proceeding.

With these observations, the revisional application is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the learned counsels for the parties on usual undertaking.

(Jay Sengupta, J.)

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