

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

CRR 116 of 2021

AZIJUL MONDAL
Vs.
STATE OF WEST BENGAL & ANR.

For the PetitionerS : Mr. Ibrahim Shaikh

Heard on: : 17th MARCH 2021

Judgment on : : 17th MARCH 2021

The Court:

This is an application challenging an order dated 15.12.2020 passed by the learned Judicial Magistrate, 5th Court, Krishnanagar, Nadia in Complaint Case No. 2227 of 2017, thereby rejecting the prayer of the accused that the case was filed beyond the period of limitation.

Learned counsel appearing on behalf of the petitioner submits as follows. The statutory notice under section 138 of the Negotiable Instruments Act given by the complainant was received by the accused on 29.07.2017. But, the petition of complaint was filed on 13.09.2017. An accused has to make payment within fifteen days of service of notice. Therefore, the payment was required to be made by 14th October. If thirty days was calculated from that date, it will fall on 11th November.

I have heard the submissions of the learned counsel appearing on behalf of the petitioner and have perused the revision petition.

Learned Magistrate has done the calculation regarding the time within which the petition of complainant was to be filed. He had followed the principles laid down by the Hon'ble Apex Court in M/s. Saketh Indian Ltd. & Ors. Vs. M/s. Meena Securities Ltd., reported in 1991 Cr.L.J 1822.

I find no error or illegality in the calculation done by the learned Magistrate. According to him, the complaint has to be filed within 14.09.2017. The petition of complaint was quite rightly filed a day before.

In view of the above, I do not find any illegality in the impugned order.

Accordingly, the revisional application is dismissed .

However, there shall be any order as to costs.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties upon usual undertakings.

(Jay Sengupta, J.)