

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

The Hon'ble **JUSTICE BIBEK CHAUDHURI**

CRR 2145 of 2022

Venkatesh Vincom Pvt. Ltd.

-Vs-

M/s Spice of Joy & Ors.

For the petitioner: Mr. Pawan Kr. Gupta, Adv.,
 Mr. Anurag Bagaria, Adv.
 Ms. Sofic Nesar, Adv.,
 Mr. Santanu Seth, Adv.,
 Ms. Riya Debnath, Adv.

For the State:- Mrs. Amita Gour, Adv.,

Heard on: 13th July, 2022.

Judgment on: 13th July, 2022.

BIBEK CHAUDHURI, J. : –

1. The petitioner is the complainant of a case under section 138/141 of the Negotiable Instruments Act being complaint case no. 4668 of 2018 presently pending before the 5th Court of the Learned Judicial Magistrate, Alipore. The petitioner has filed the instant revision praying for expeditious disposal of the abovementioned complaint case.

2. I have considered the averment made in the instant revision and heard Learned Advocate for the petitioner. I am of the view that the instant revision can be disposed of here and now with the assistance of the learned Advocate for the State of West Bengal.

3. Therefore, Mrs. Amita Gour, Advocate is requested to assist this Court on behalf of the State.

4. Appointment of Mrs. Amita Gour be regularised by the Learned Legal Remembrancer, Government of West Bengal.

5. It is submitted by the Learned Advocate for the petitioner that the complaint case no. 4668/2018 was filed on 6th October, 2018. It took about three years to ensure representation of the accused company and only on 7th March, 2022, the case was filed for examination of the accused under Section 251 of the Cr.P.C.

6. On 7th March, 2022, accused remained absent which prompted the trial court to issue warrant of arrest against the accused fixing 6th May, 2022 for execution of warrant of arrest. The warrant of arrest was not executed by the police authority and the Learned Magistrate fixed 14th September, 2022 for execution of warrant against the accused.

7. It is further submitted by the Learned Advocate for the petitioner that Section 143 of the Negotiable Instruments Act mandates the Court to try cases under Section 138 summarily. Sub-section (2) of Section 143 directs that the trial of the case shall be continued from day to day until its conclusion. Sub-section (3) states that every trial shall be made to conclude within six months from the date of filing complaint.

8. Statutory direction under Section 143 of the Negotiable Instruments Act got judicial recognition in **Indian Bank Association & Ors. vs. Union of India & Ors.** when the Hon'ble Supreme Court issued series of directions as to how trial court should take positive endeavour to dispose of the cases under Section 138 of the Negotiable Instruments Act.

9. However, it appears from the process of business conducted by the trial Court in Complaint Case No. 4355/2018 that the Learned Magistrate turned deaf ear to statutory dictum under Section 143 of the Negotiable Instruments Act and/or judicial directions passed by the Hon'ble Supreme Court, lest the trial court would not have taken about 4 years to ascertain representation of the accused company under Section 305 of the Cr.P.C.

Under such circumstances the instant revision is disposed of directing the Learned Magistrate to ensure execution of warrant of arrest by the date fixed. If the warrant of arrest is executed, learned Magistrate shall consider if under the facts and circumstances of the case the accused should be released on bail or not.

If the learned Magistrate finds it proper to release the authorised representative on bail, there shall be a condition directing the accused to deposit bank guarantee for an amount equivalent to double the cheque amount.

Learned Magistrate then shall proceed with the trial of the case strictly in compliance with Section 143 (3) of the Negotiable Instruments Act and shall take all endeavour to conclude trial of the case within one month from the date of commencement of trial.

The instant revision is thus disposed of.

(Bibek Chaudhuri, J.)