

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

The Hon'ble **JUSTICE BIBEK CHAUDHURI**

CRR 2778 of 2022

Mohan Lal Agarwala

-Vs-

Rajesh Sanei

For the petitioner: Mr. Pawan kr. Gupta, Adv.,
 Mr. Anurag Bagaria, Adv.,
 Ms. Sofia Nesar, Adv.,
 Mr. Santanu Sett.

For the State:- Mr. Sarayati Dutta, Adv.

Heard on: 6 September, 2022.

Judgment on: 6 September, 2022.

BIBEK CHAUDHURI, J. : –

1. The petitioner is the complainant of a case under Section 138 of the Negotiable Instruments Act being complaint case no. CN/551 of 2018 presently pending before the Learned 20th Metropolitan Magistrate, Calcutta. 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, Mr. Sarayati Dutta, Advocate is requested to assist this Court on behalf of the State.
4. Appointment of Mr. Sarayati Dutta be regularized by the Learned Legal Remembrancer, Government of West Bengal.
5. It is submitted by the learned Advocate for the petitioner that the petitioner filed a petition of complaint before the Learned Additional Chief Metropolitan Magistrate at Calcutta under Section 138 of the NI Act against the opposite party. The said complaint has been registered as Case no. CN/551 of 2018 and on the same day cognizance of the offence was taken and transferred to the Court of Learned 20th Metropolitan Magistrate for disposal. The matter has been heard from time to time but there has been wilful delay in the proceeding due to non-appearance of the accused/opposite party. On multiple occasions the opposite party did not appear seeking several adjournments. The instant case was filed on 09.08.2018 and after several adjournments it was fixed on 16.01.2021 for examination of the accused under Section 313 Cr.P.C. Thereafter several dates were fixed for evidence but the accused remained absent only to delay the judicial proceedings. The next date is fixed on 02.09.2022.
6. 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 138 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.

7. Statutory direction under Section 143 of the Negotiable Instruments Act got judicial recognition in **Indian Bank Association & Ors. vs. Union of India & Ors.** reported in **(2014) 5 SCC 590** 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.

8. However, it appears from the process of business conducted by the trial Court in Complaint Case No. 551/2018 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.

9. Under such circumstances the instant revision is disposed of direction the Learned Magistrate to ensure that the proceedings of this case is concluded as expeditiously as possible strictly adhering to the provisions of Section 143 of the NI Act read with Section 309 of the Cr.P.C.

10. The instant revision is thus disposed of.

(Bibek Chaudhuri, J.)