

Form No. J(2)

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 2420 of 2021

Biswanath shaw

-vs-

The State of West Bengal & Anr.

For the Petitioner : Mr. Tapas Kumar Dey
Mr. Nirupam Sarkar

For the Opposite party : Ms. Sreyashee Biswas

For the State : Mr. Arijit Ganguly
Mrs. Sujata Das

Heard on : 15.03.2022

Judgment on : 15.03.2022

Jay Sengupta, J.:

This is an application challenging an order dated 12.11.2021
passed by the learned Metropolitan Magistrate, 8th Court, Calcutta in

case no. CS 47673 of 2017 under Section 138 of the Negotiable Instruments Act.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is an accused in this case. In January, 2021 a date was fixed for adducing defence witness. The petitioner was not aware of the same, as he was not mentally well. This could be ascertained from copies of medical documents filed by the petitioner. Thereafter, the Covid-19 pandemic set in. As such, the petitioner was unable to attend the court and adduce defence evidence. On 07.04.2021 the learned trial court was pleased to close defence evidence and fix the next date for argument. On 12.11.2021 again a date was fixed for argument. In the interest of justice, one more opportunity may be given to the petitioner to adduce defence evidence. It will be sufficient if two dates are dedicated for the said purpose.

Learned counsel appearing on behalf of the complainant submits as follows. There is statutory stipulation for concluding a proceeding under Section 138 of the Negotiable Instruments Act expeditiously. However, because of the dilatory tactics of the accused petitioner the same could not be done. No further opportunity should be given to the petitioner in the name of adducing evidence.

I have heard the submissions of the learned counsels appearing on behalf of the petitioner, complainant opposite party and the State and have perused the revision petition.

It is true that several dates were fixed for the accused to adduce evidence. However, the petitioner has not availed of such opportunity. This caused some delay in concluding the proceeding.

In fact, strictly speaking the learned trial court cannot be faulted in closing the defence evidence and fixing a date for argument.

However, it would not be completely unreasonable for an accused to take up plea that during such pandemic, he was unable to attend the court to adduce evidence.

In the facts and circumstances of the present case and in the interest of justice, it would be just and proper if another opportunity is given to the petitioner to adduce defence evidence.

Accordingly, I request the learned trial court to allow the petitioner to adduce defence evidence on the next date and on another date, if required, and thereafter conclude the proceeding as expeditiously as possible without granting any unnecessary adjournment to any of the parties, preferably within a period of 4 months from the next date of hearing.

With these observations, the revisional application is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)

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