

CRR 3751 of 2019

In the matter of: Dang Pharmaceuticals

....petitioner.

Mr. Moyukh Mukherjee

Mr. Shakti Halder

...for the Petitioner.

Being aggrieved by the proceeding being Complaint Case No.20A of 2016/ T.R. No.476 of 2016 under Section 138 of the Negotiable Instruments Act, present revisional application has been preferred by the petitioner.

This is a case under Section 138 of the Negotiable Instruments Act where the accused person had issued 11 cheques of Dang Pharmaceuticals total amounting to Rs.3,13,000/- and the said cheques bear the signature of the accused person.

It appears from the copy of the order sheets submitted by the complaint/petitioner that initially the matter was heard on the point of maintainability. Subsequently, it was transferred to the 6th Court of Judicial Magistrate, Sealdah, South 24-Parganas and renumbered as T.R. 476 of 2016 wherein the learned Magistrate had fixed the matter on January 18, 2017 for initial ezhar. After taking initial ezhar, learned Magistrate was pleased to issue process upon the accused person and subsequently, on February 13, 2017 the accused person, namely, Ramesh Panjabi surrendered before the Court and obtained bail. The plea was taken vide order dated March 6, 2017 when the substances of the accusation under Section 138 of the Negotiable Instruments Act was read over and explained to the accused person to which the accused person pleaded not guilty and claimed to be tried.

Then vide order dated August 17, 2017, February 7, 2018 and March 7, 2018, the examination of complaint witness was completed and the matter was fixed on May 8, 2018 for examination of the accused under Section 313 of the Code of Criminal Procedure. On July 24, 2018 the accused person was examined under Section 313 of the Code of Criminal Procedure and the learned trial court was pleased to fix August 29, 2018 as accused decline to adduce any defence witness. Then the complainant filed written argument and September 18, 2018 was fixed for delivery of judgment but for the reasons not disclosed in the order, the judgment was not delivered on the date and the case was deferred to October 9, 2018 for delivery of judgment. Subsequently, on October 9, 2018 the accused prays for time. On the basis of prayer made by the accused, the delivery of judgment was deferred and subsequently, thereafter the case was deferred on two three occasions but the judgment was not delivered. On January 29, 2019, on the basis of prayer made by accused, the PW1 was recalled by Magistrate concerned for cross-examination by invoking power under Section 311 of the Code of Criminal Procedure and PW1 accordingly cross-examined on February 5, 2019 and then several dates were being fixed for further cross-examination of PW1 and again the case was again fixed for argument on September 27, 2019 and lastly, it was fixed on December 26, 2019 for argument.

After that this Court called for the lower court record and for which nothing happened and pointing out this peculiarity of the order as mentioned above, learned counsel for the petitioner submits that once the trial was concluded and the date was fixed for delivery of judgment, how the proceeding before trial court is

dragged. The petitioner in this case accordingly prayed for passing appropriate order for early disposal of the proceeding.

In view of the aforesaid peculiar facts and circumstances of this case, the learned trial court is directed to dispose of the case positively within three months from the date of receipt of the lower court record as well as the order passed by this Court.

Let a copy of this order along with lower court record be sent down at once.

CRR 3751 of 2019 is accordingly disposed of.

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

(Ajoy Kumar Mukherjee, J.)