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31.01.2023
Ct. No. 236

CRR 666 of 2011
IA No. CRAN 1 of 2011 (Old No. CRAN 2074 of 2011)

In the matter of:- Smt. Bratati Bose ...petitioner

None is found present on behalf of the petitioner. This criminal revisional application has been pending since 2011. Therefore, I propose to dispose of the application, based on the materials available with the record.

Smt. Bratati Bose, the petitioner before this court has been arrayed as an accused in a complaint case registered as C-298 of 2007, which was filed by the opposite party No.1 through his constituted attorney under Section 138 of the N.I Act. The person adducing evidence on behalf of the complainant during cross-examination was asked to produce certain documents, which the witness stated that he would produce on the adjourned date, but as a matter of fact, no such document was produced. The accused person thereafter filed an application under Section 91 of the Code of Criminal Procedure, seeking appropriate order, and learned Trial Court having considered the contention of the parties was pleased to reject the application holding, inter alia, that complainant or his witness cannot be compelled to produce any documents. It is the onus of the complainant to prove his case. If it is found that some relevant documents have been withheld by the complainant, adverse inference could be drawn against him. This was passed on 5th January, 2011. Challenging the said order, the

accused person filed this application.

The accused person cannot be said to have any right to compel the complainant or the witness adducing evidence on behalf of the complainant to produce documents. This application filed before the learned Magistrate was nothing but a ploy to delay the proceeding under Section 138 of N. I Act and by filing an application under Section 482 of the Code of Criminal Procedure, the accused petitioner virtually is abusing the process of law.

The criminal revisional merits no consideration and is dismissed with cost of Rs.25,000/- to be paid within four weeks hence to the learned Trial Court.

Let a copy of the order be sent to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)