

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

Present :

The Hon'ble Justice Bibek Chaudhuri

C.R.R. 1081 of 2023

Subhash Roy

Vs.

The State of West Bengal & Anr.

For the petitioner : Mr. Rabindra Kumar Jaiswal, Adv.

Heard on : 18.04.2023.

Judgment On : 18.04.2023.

Bibek Chaudhuri, J.

Being aggrieved, the petitioner has assailed an order dated 29th September, 2022 passed by the learned Judicial Magistrate, 2nd Court at Serampore in G.R. Case No.2531 of 2018 under Sections 420/406 of the Indian Penal Code.

It is submitted by the learned Advocate for the petitioner that respondent No.2 issued a cheque on 24th July, 2017 in order to discharge his existing debt or liability in favour of the petitioner. The petitioner submitted the said cheque to his banker for encashment. However, the said cheque was dishonoured. Thereafter, the petitioner filed an application under Section 138 of the Negotiable Instruments Act. He also filed a complaint before the jurisdictional police station on the basis of which Rishra Police Station Case No.153 of 2018 dated 27th November, 2018 under Sections

420/406 of the Indian Penal Code was registered against the opposite party No.2. In the said case police submitted charge-sheet.

It is the grievance of the petitioner that during investigation of the case, police seized the original cheque which was dishonoured, cheque return memo and all other documents under a seizure list as exhibits to prove the charge under Sections 420/406 of the Indian Penal Code. In the said case being G.R. Case No.2531 of 2018 charge has been framed against the accused. Subsequently, date was fixed for recording evidence of P.W.1. However, prosecution has not taken any step for production of witnesses. Therefore, for years together same order is being repeated by the learned Magistrate. The petitioner also filed an application praying for return of the seized documents to proceed with the complaint case under Section 138 of the Negotiable Instruments Act. However, the learned Magistrate has not passed any order upon the said application and he is going on passing series of orders fixing days after days for passing order.

Since the Investigating Officer seized the dishonoured cheque and other documents which are required to be proved in the case under Section 138 of the Negotiable Instruments Act, the petitioner is at liberty to obtain the certified copies of the said cheque and other relevant documents required for passing with the complaint case under Section 138 of the Negotiable Instruments Act.

After obtaining certified copies of the documents, he shall pray for return of the original documents replacing the said documents with the certified copies in the Case Diary. The learned Magistrate shall allow him to

take back the original documents provided the above procedure is followed by the petitioner.

The learned Magistrate shall also take effective step for disposal of G.R. Case No.2531 of 2018 at an early date.

With the above order, the instant revision is disposed of.

(Bibek Chaudhuri, J.)

***Mithun De/
A.R. (Ct).
SI No.15.
D/L.***