

13.10.2023

Item No.35
Ct.No.34
dc.

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

C.R.R. 1123 of 2023

In the matter of : **Muklesh Sk**

... Petitioner.

Md. Wasim Akram

... For the Petitioner.

The petitioner is aggrieved by the factum of the proceedings being Complaint Case No. 499C of 2021 not progressing. The said complaint case is under Section 138 of the Negotiable Instruments Act and is pending before the learned Judicial Magistrate, 2nd Court, Malda.

Learned advocate appearing for the petitioner submits that the accused has been playing with the system of the court and is appearing in such a manner that the trial of the case cannot progress.

The last of the order-sheet reflects that after initial appearance, again warrant of arrest was issued so far as the accused is concerned. It has also been informed that the next date is fixed on 16.11.2023 before the learned Judicial Magistrate, 2nd Court, Malda in connection with the instant case.

Having considered the inconveniences designedly caused by the accused, I direct the learned Judicial Magistrate, 2nd Court, Malda that if the accused is absent on the next date, the learned Magistrate would communicate with the Superintendent of Police, Malda who would ensure regarding the presence of the accused. If thereafter the accused does not appear, the learned Magistrate would

proceed with the provisions of Section 82 of the Code of Criminal Procedure and ensure regarding the presence of the accused. If required after the statutory period under Section 82 of the Code of Criminal Procedure, the provisions of Section 83 of the Code of Criminal Procedure be invoked to attach the properties of the accused.

In the alternative, if the accused appears before the court, the learned trial court would fix one date in a month, so that the proceedings under Section 251 of the Code of Criminal Procedure may be concluded at the earliest and thereafter evidence of PW-1 be commenced for progressing with trial of the case. All efforts be taken so that trial of the case is concluded within a reasonable period of time.

Since the case is of the year 2021, if the learned Magistrate after examination of the accused under Section 251 of the Code of Criminal Procedure is called upon to decide on the issue of Section 143A of the Negotiable Instruments Act, the learned trial court having regard to the conduct of the accused would adhere to the said provisions and impose an amount of 20% of the amount of the cheque to be given to the complainant during the pendency of the trial.

With the aforesaid observations, the revisional application being CRR 1123 of 2023 is disposed of.

Pending connected application, if any, is consequently disposed of.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)