

Form J(1)

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

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CRR 1778 of 2022

**Binay Singh
Vs.
The State of West Bengal & Anr.**

Mr. Amitabha Ghosh
Ms. Nabanita Chatterjee
..for the petitioner

Item No.125

Heard & Judgment on: 18.04.2023

Bibek Chaudhuri, J.

This is an application for expeditious disposal of Case No.CNS Case No. 608 of 2020 presently pending before the learned Metropolitan Magistrate, Calcutta.

The above case arose out of an application under Section 138 of the Negotiable Instruments Act. It is alleged on behalf of the petitioner that in order to discharge the existing debt and liability the

opposite party No.2 issued a cheque which was dishonoured. After service of notice and waiting for the statutory period, the petitioner filed the above mentioned complaint before the learned Additional Chief Metropolitan Magistrate, Calcutta. After taking cognizance of offence the learned Additional Chief Metropolitan Magistrate-II, Calcutta issued process against the accused/opposite party No.2. The accused received the process and through her learned advocate prayed for time for appearance. The learned Magistrate granted time for her surrender and thereafter transferred the case to the 8th Court of the learned Metropolitan Magistrate. The learned Metropolitan Magistrate also went on passing the similar order. This Court fails to understand when process has been received by the accused/opposite party No.2 why he would not be directed to surrender on the date of her appearance. If she does not appear, the learned Magistrate is authorized to issue warrant of arrest. However, the learned Magistrate went on granting time for gracious appearance of the opposite party No.2. The step taken by the learned Magistrate, 8th Court is uncalled for, unwarranted and illegal.

Therefore, the instant revision is, thus, disposed of directing the learned Metropolitan Magistrate, 8th Court, Calcutta to take proper step so that the opposite party No.2/accused may surrender on the

next date fixed, failing which he is at liberty to issue warrant of arrest against the opposite party No.2.

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

(Bibek Chaudhuri, J.)