

08.12.2023
item No.26
Rakib (PA)
ct. no. 34

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

CRR 1623 of 2023

**Budhan Bagdi
Vs
The State of West Bengal & Anr.**

In Re: An Application under Article 227 of the Constitution of India;

Mr. Santu Nandy,
Mr. Md. Ayaan.

.... For the Petitioner.

The learned Advocate appearing for the petitioner has challenged the continuation of CR Case No. 878 of 2019 under Section 138 of Negotiable Instruments Act pending before the learned Judicial Magistrate, 4th Court, Durgapur.

Learned Advocate appearing for the petitioner submits that notice was not served upon the present petitioner and in spite of the same the proceedings before the learned Judicial Magistrate, 4th Court Durgapur is proceeded.

I have considered such submission which is question of fact. Whether a notice has been served upon the accused or not is the onus of the complainant to produce supporting materials and the manner in which it has been sent. Until and unless such documents and evidence are assessed summarily the issue cannot be decided in a proceeding under Article 227 of the Constitution of India or invoking the provisions of Section 482 of the Code of Criminal Procedure.

Having considered the issues so canvassed, I am of the view that the petitioner would be at liberty to cross-examine the prosecution witnesses on the issue relating to which at the relevant stage of the trial. No interference in made by this Court at this stage.

With the aforesaid observations CRR 1623 of 2023 is disposed of.

Pending application, if any, is consequently disposed of.

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

(Tirthankar Ghosh, J.)