

01.08.2023
Sl.19
Ct.34
(S.R.)

In this case the petitioner happens to be the director of the accused company. The subject matter of challenge relates to the continuance of CS 61512 of 2017, which is a case under Sections 138/141 of the Negotiable Instruments Act pending before the learned Metropolitan Magistrate, 14th Court, Calcutta.

Mr. Chowdhury, learned advocate appearing for the petitioner submits that the peculiarity of the present case, which distinguishes it from rest of the judgements pronounced by the Hon'ble Apex Court is that in this case the cheque was in custody of the company and was placed much after the moratorium was declared under the IBC. To that effect, the judgement of the NCLT including the orders on and from 13th March, 2017 were brought to the notice of this Court which have been enclosed with the revisional application.

I have perused the order-sheets, which have been enclosed along with the revisional application. So far as the proceeding under Sections 138/141 of the Negotiable Instruments Act is concerned before the learned Metropolitan Magistrate, 14th Court, Calcutta I do not find for the last 6 years the same was

brought to the notice of the learned Magistrate.

The petitioner is granted liberty to bring the order of the NCLT along with the issues which have been canvassed in the present revisional application before the learned Magistrate, 14th Court, Calcutta. The learned Trial Court would judiciously consider whether the present proceedings, which are continuing, would continue in view of the Hon'ble Apex Court judgements and the purport of the provisions of the Negotiable Instruments Act. If such an application is filed on 8th August, 2023, the learned Magistrate would take efforts to conclude the hearing of the same within 4 to 6 weeks from the date of filing of such application.

With the aforesaid observations, the revisional application being CRR 1750 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.)