

18-07-2023
Subha
Item no. 13
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 2585 of 2023

Jai Prakash Agarwal
-versus-
The State of West Bengal & Anr.

Mr. Pawan Kumar Gupta
Mr. Moti Sagar Tiwari
....for the petitioner.

Mr. Gupta, learned advocate appearing on behalf of the petitioner is aggrieved by the continuance of the proceedings. Learned advocate draws the attention of this court to the fact that the cheque was dated 1st January, 2020 as has been narrated in the complaint. The same was presented on 12th March, 2020 and it returned with the endorsement as 'stopped payment'/insufficient fund' on 13th March, 2020. However, according to the learned advocate the notice was sent on 15th June, 2020 and the same was received according to the complainant on 18th June, 2020. Learned advocate submits that without an application under Section 142(b) of the N. I. Act, the cognizance could not have been taken by the learned Magistrate as there was a bar operating in respect to the delay caused in filing of the complaint. The delay in this particular case is absolutely a question of act as the period which has been referred to is from the middle of March, 2020 to the middle of June, 2020. There are several notifications, which granted concession for filing of litigation before the appropriate forum. The complainant under such circumstances would be bound if confronted with the

issue regarding the delay in filing of the case as for the first time the pandemic affected the country and there was a complete lockdown.

Having considered Mr. Gupta's point relating to the issue of delay, I am of the opinion that at least in such type of cases, under the provisions of N. I. Act where the complainant who happens to be injured by loss of money is faced with the situation like lockdown would have to be granted opportunity to prove its case. On the other hand the accused obviously is well within his rights to rebut such evidence showing that the complainant did not comply the mandate of the statutory provisions.

Having regard to the mixed question of fact and law involved in this particular case, I am not inclined to interfere with the instant proceedings.

Another issue which has been canvassed relate to paragraph 7 of the compliant wherein the complainant has taken up a plea of a subsequent cheque and it has been canvassed that the order taking cognizance is vague as to which cheque the learned Magistrate took cognizance of the offence. The issue relating to the same again is to be canvassed in course of the trial as the cheque issued on 01.04.2020 is the one which prima facie complied with the statutory requirements. All issues which have been canvassed in this revisional application is kept open. The complaint was filed in the year 2020. Learned Magistrate would proceed with the case as early as possible without granting any unnecessary adjournments to any of the parties by adhering to the

provisions of the N. I. Act.

With the aforesaid observations, the present revisional application being CRR 2585 of 2023 is disposed of.

Pending applications, if any, are consequently disposed of

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]