

21-08-2023
Subha
D/L 07
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 3128 of 2022

Sri Om Prakash Dayani and ors.
-versus-
State of West Bengal and anr.

Mr. Apalak Basu
Ms. S. Seth
Ms. Shaloni Basu
....for the petitioners.

Petitioners have challenged the proceedings of Complaint Case No. 300 of 2012 under Section 138 of the N. I. Act which is pending before the learned Judicial Magistrate, 2nd Court, Barrackpore.

The main thrust of contention of Mr. Apalak Basu, learned advocate appearing on behalf of the petitioners is that the cognizance of the complaint was taken beyond the period of limitation. The case is of the year 2012. Record of the case reflects that the evidence has already commenced.

Having regard to the fact that 11 years have passed since the commencement of the case at this belated stage, I am not inclined to interfere or stall the proceedings. Let the evidence of the case be completed within a period of six months from the date of communication of this order.

The provisions of the N. I. Act require statutory compliance, which is distinguishable from other offences. The plea that a complaint should be filed within a period of 30 days from the date when the cause of action arise is one of the essential ingredients for

invoking the provisions of Section 138 of the N. I. Act. In case the same is not complied with, mere cognizance of the offence being taken by the learned trial court will not debar the accused from taking up such issue at the stage of final arguments of the case. If the learned trial court finds that the complaint was filed beyond the period fixed under the statute, for the purposes of filing of the complaint, the learned trial court would consider the same in accordance with law and give his opinion on the same at the time of delivering his judgement.

With the aforesaid observations, the present criminal revisional application being CRR 3128 of 2022 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]