

Form J(1)

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

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

C.R.R. 3323 of 2022

***Sampa Dutta Chowdhury.
Vs.
The State of West Bengal & Anr.***

**For the petitioners : Mr. Tapas Kumar Dey, Adv.
Mr. Ashis Kumar Dutta, Adv.
Mr. Rounak Majumdar, Adv.**

Heard on : 06.01.2023

Judgment On : 06.01.2023.

Bibek Chaudhuri, J.

The petitioner has approached this Court under Section 482 of the Code of Criminal Procedure aggrieved by an order dated 15th July, 2022 passed by the learned Judicial Magistrate, 2nd Court at Barasat fixing 20th February, 2024 for further cross-examination of P.W.1. From the case number itself it is ascertained that G.R. 4332 was registered in the year 2017, already 5 years have elapsed till date, the petitioner was examined in -chief on 2nd December, 2019. Thereafter, cross-examined in part on 20th February, 2020 and after 20th February, 2020, trial of the case came to a halt.

The impugned order dated 15th July, 2022 is a glaring incident where the most important canon of criminal administration of justice, i.e. speedy trial has been denied. This Court is perfectly aware that the Courts of the learned Judicial Magistrate all over the State are over burdened, but this does not mean that next date of recording evidence of a witness will be fixed after a gap of 2 years. The Court must be alive to consider that criminal trial is based on evidence of witnesses who depose about an incident from his/her memory. If recording of evidence of a particular witness is prolonged in such a manner, there is every possibility that there would be contradictions in the evidence of a witness because of the fact that memory fades with the passage of time.

For the reasons stated above, this Court expresses its anguish against the order dated 15th July, 2022.

At the same time this Court is not unmindful to note that magistracy is the stepping stone of criminal administration of justice and the learned Magistrate will surely be promoted in future and discharge more responsible duties as Chief Judicial Magistrate and the Sessions Judge. If at this budding stage, the learned Magistrate learns that a date during trial can be fixed after a lapse of 2 years, such learning is no learning for Court management. The learned Magistrate should know that Section 309 of the Code of Criminal

Procedure is applicable not only for the Sessions Trial but in respect of all criminal trial too.

For the reasons stated above, the impugned order is set aside.

The learned Magistrate is requested to fix a shorter date for cross-examination of P.W.1 and examination of other witnesses on behalf of the prosecution after serving notice to the opposite party/accused persons.

The instant revision is, thus, disposed of.

This Court is of the view that the learned Magistrate concerned is not the solitary judicial officer who commits such manifest irregularity.

Therefore, for future guideline, the learned Registrar (Judicial Service), Appellate Side, High Court, Calcutta is requested to communicate this order to all the members of the Judicial Services who are posted as Judicial Magistrates, Additional Chief Judicial Magistrates and Chief Judicial Magistrates for information through the learned Sessions Judge of the respective Sessions Divisions.

(Bibek Chaudhuri, J.)

**Mithun De/
A.R. (Ct).
SI No.13.
D/L.**