

Form J(1)

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

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

CRR 4523 of 2022

**Ayesha Awan
Vs.
Kushal Mussadi & Ors.**

Ms. Rupa Singh
..for the petitioner

Mr. Mainak Gupta
..for the State

Item No. 83.

Heard & Judgment on: 18.01.2023

Bibek Chaudhuri, J.

This is an application for a direction upon the trial Court for expeditious disposal of Complaint Case No.CS/68753/2018 filed by the petitioner under Section 138 of the N.I. Act pending before the learned Metropolitan Magistrate, 14th Court at Calcutta.

It is ascertained from the petition that the aforesaid complaint case under Section 138 of the N.I. Act was filed on 31st July, 2018. The accused surrendered before the trial Court on 4th January, 2019. The evidence on behalf of the petitioner was closed. Date was fixed for examination of the opposite party No.1 under Section 313 of the Code of Criminal Procedure on 4th September, 2019. However, the opposite party did not appear on the date of his examination under Section 313 of the Code of Criminal Procedure. Therefore, the learned Magistrate issued warrant of arrest on 17th January, 2020. The opposite party No.1 again surrendered before the trial Court on 20th March, 2020 and was released on bail. Again he disappeared and the trial Court issued warrant of arrest on 1st July, 2022. Till date the said warrant of arrest has not been executed. Therefore, the case is pending. Unless and until the warrant of arrest pending against the accused is executed by the police authority, trial of the case cannot be taken up by the learned Magistrate. Therefore, the petitioner is at liberty to mention the matter before the learned Magistrate for passing necessary order directing the police authority to execute the warrant of arrest pending against the opposite party No.1. At this stage,

this Court cannot pass any order for expeditious disposal of the above mentioned case.

With the above observation, the instant revision is disposed of.

(Bibek Chaudhuri, J.)