

Form J(1)

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

Present :

The Hon'ble Justice Bibek Chaudhuri

C.R.R. 4618 of 2022

Milan Kumar Dutta & Ors.

Vs.

Tapan Kumar Mondal

**For the petitioners : Mr. Moyukh Mukherjee, Adv.
Mr. Sougata Chatterjee, Adv.**

Heard on : 15.05.2023.

Judgment On : 15.05.2023.

Bibek Chaudhuri, J.

A case under the NI Act being N.I. Case No. 51 of 2016 under Section 138 of the said act is pending in the Court of the learned Judicial Magistrate, 3rd Court at Sealdah against the petitioners. The petitioners appeared in the said case and filed an application under Section 205 of the Code of Criminal Procedure. The said application was allowed directing the petitioners that they would only attend the Trial Court on the dates fixed for examination of the accused under Section 313 of the Code of Criminal Procedure, argument and delivery of judgment.

It is also on record that the petitioners were examined under Section 313 of the Code of Criminal Procedure on 6th March, 2018 and the next date was fixed on 25th April, 2018 for D.W. Subsequently, various dates were

fixed but the petitioners failed to examine any witness on behalf of the Defence.

Practically petitioner No.1 was examined as D.W. in part. Finally on 3rd December, 2022, the learned Magistrate closed the evidence and fixed the case for argument. The said order dated 3rd December, 2022 is under challenge by the petitioners.

It is submitted on behalf of the petitioners that the petitioners want to exhibit only two documents through D.W.1. However, the examination of D.W.1 was closed.

For proper adjudication of the dispute between the parties, the learned Magistrate is requested to permit the accused persons to examine D.W.1 on a single date fix by the learned Magistrate. The petitioners shall conclude examination of D.W.1 on the date fixed and no further dates shall be given on any reason whatsoever by the learned Magistrate.

After giving an opportunity to the petitioners of examination of D.W.1, the learned Magistrate shall hear out the argument and deliver judgment.

If on the date fixed, any adjournment is sought for on behalf of the petitioners on any reason whatsoever, the same will be rejected and the learned Magistrate shall be free to hear out the argument.

In view of the above order, the impugned order dated 3rd December, 2022 is set aside.

The revisional application is **allowed**.

The parties are at liberty to act on the server copy of the order.

(Bibek Chaudhuri, J.)

***Mithun De/
A.R. (Ct).
SI No.11.
D/L.***