

09.05.2024  
Serial no.17  
Aloke  
Ct. No. 30

**CRR 18 of 2022  
with  
IA No. CRAN 2 of 2023**

**Shri Sadananda Paul  
Vs.  
The State of West Bengal & Anr.**

**For the Petitioner :** Mr. Nanigopal Chakraborty.

**For the Opposite Party No. 2 :** Mr. Siddhartha Sarkar,  
Mr. Prasad Bhattacharyya.

1. The present revisional application has been preferred praying for quashing of the complaint case being No. C.R. 205 (A)/2021 (C.R. 205/2021) under Section 138 of the N.I. Act, 1881 which is pending before the learned Judicial Magistrate, 1<sup>st</sup> Class, 3<sup>rd</sup> Court, Paschim Medinipur.
2. It is the case of the petitioner/accused that the learned trial Court vide order dated 30.10.2021 has passed an order allowing the complainant's prayer under Section 142 (b) of the N.I. Act. The said order dated 30.10.2021 is reproduced here:-

**"Order dated 30.10.2021"**

*Today the date is fixed for S.A.  
The record is taken up and the complainant  
namely Manoranjan Panja is examined as per  
provision of section 200 of Cr.P.C.  
Perused the complaint, affidavit of the  
complainant, oral deposition and other materials on  
record.  
Heard Learned Advocate for the  
complainant.*

*It appears that another case was filed earlier in respect of same alleged incident but the same was dismissed due to premature complain. Thereafter the present case is filed after describing the cause of delay of filing the present case as per the guideline of the Hon'ble Supreme Court laid down in Yogendra Pratap Singh..vs...Savitri Pandey and another reported in 2014(10) SCC 713.*

*Considering the material on record it appears that the complainant is being able to bring a prima facie case against the accused persons punishable u/s 138 of N.I. Act.*

*Hence, issue summon upon the accused person directing him to appear before the Court.*

*Complainant is directed to file requisites at once.*

*To date i.e. 18.01.2022 for S/R, AD and appearance of the accused person.*

**Sd/-**  
**J.M., 3<sup>rd</sup> Court**  
**Paschim Medinipur"**

- 3.** Admittedly, the complainant's previous complaint under Section 138 N.I. Act filed on 25.09.2019 being C.R. Case No. 481 of 2019 before the Chief Judicial Magistrate, Paschim Medinipur was dismissed by the Court on the following findings:-

**"CR 481/19(R-481/19)**

**Order dated 11.08.2021**

*..... In the instant case as it appears from the materials available on record, the complaint is premature one as from the postal track report it can be seen that the notice was delivered on 21.09.2019 and the instant complaint was filed on 25.09.2019 i.e. before the expiry of 15 days time period.*

*Therefore, no cognizance on the basis of this complaint can be taken u/s-200 Cr.P.C.*

*Be that as it may, the instant case is hereby dismissed.*

**Sd/-**  
**J.M., 6<sup>th</sup> Court**  
**Paschim Medinipur.”**

4. Subsequently, the petitioner filed a fresh complaint before the learned Magistrate on 01.09.2021 along with an application under Section 142(b) of the N.I. Act.
5. Considering the materials on record it appears that the said application under Section 142(b) was allowed by the learned Magistrate without giving an opportunity to the petitioner/accused herein against whom a prior complaint on the selfsame allegations had been dismissed. The said order allowing the application under Section 142(b) of the N.I. Act ex party is against the principle of natural justice and the petitioner/accused is entitled to a right of hearing.
6. Accordingly, the present revisional application is disposed of by setting aside the order dated 30.10.2021 passed by the learned Judicial Magistrate, 3<sup>rd</sup> Court, Paschim Medinipur in CR 205(A)/2021.
7. The learned Magistrate is directed to hear the application under Section 142(b) of the N.I. Act **afresh** while considering the complaint petition under Section 200 of the Cr.P.C. by giving an opportunity of hearing to both sides.
8. The learned Magistrate shall dispose of the said application in accordance with law, within a period of one month from the date of communication of this order.

- 9. CRR 18 of 2022 is thus disposed of.**
- 10.** All connected applications, if any, stand disposed of.
- 11.** Interim order, if any, stands vacated.
- 12.** Copy of this order be sent to the learned Trial Court for necessary compliance.
- 13.** Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

**(Shampa Dutt (Paul), J.)**