

19.03.2024
Item No.106
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 1104 of 2024

In the matter of : **Sangita Saha** ... Petitioner.

Mr. Prattay Khan,
Mr. Somdev Ash,
Ms. Sohini Mukherjee,
Mr. R. K. Priyanka,
Mr. Subhamoy Dutta,
Mr. Prakash Mishra ... For the Petitioner.

The petitioner has challenged the continuance of proceedings of CS/142312/2023 which is pending before learned Metropolitan Magistrate, 17th Court, Calcutta and has been initiated for alleged commission of offence under Section 138 of the Negotiable Instruments Act. The petitioner has challenged the orders dated 31.10.2023 and 13.12.2023 also.

I have considered the first submission of the petitioner which is relating to repossession of vehicle. Having considered the same, I find that the order dated 31.10.2023 by which the learned magistrate took cognizance of the offence do not suffer from any illegality.

So far as the subject-matter of Section 202 of the Code of Criminal Procedure which has been canvassed by the learned advocate for the petitioner is concerned, I am of the view that the proceedings are under Section 138 of the Negotiable Instruments Act and the learned transferee court being the learned Metropolitan Magistrate, 17th Court, Calcutta accepted the examination-in-chief which was filed by way of an affidavit by the complainant. The learned

Magistrate on perusal of the said affidavit particularly with regard to the documents which have been referred to in the affidavit issued process.

Having considered the whole elaborate process in a proceeding under Section 138 of the Negotiable Instruments Act which requires the complainant as well as the affidavit and documents which are the genesis of the case for initiation of the proceedings particularly the cheque, the notice of demand and the documents relating to dishonour by the bank and the failure of the accused in spite of receipt of the demand notice being subject-matter of satisfaction of the learned Magistrate are sufficient to issue process. No overwhelming materials have been shown by the petitioner that there is a false implication because of the petitioner staying far away or because of the petitioner staying in an adjoining sub-division within the same city. As such, having regard to the manner in which the process was issued, I am of the view that the issue so canvassed in respect of Section 202 of the Code of Criminal Procedure is due to have been complied with by the learned Magistrate.

So far as the issue relating to repossession of the vehicle is concerned, the documents which have been relied upon, the authenticity and genuinity of the same are to be checked in course of the trial. The petitioner would be at liberty to canvass such issues during the stage of evidence and the final arguments of the case.

With the aforesaid observations, the revisional application being CRR 1104 of 2024 is disposed of.

Pending connected application, if any, is consequently disposed of.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)