

3.12.2025
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CRR 3475 of 2025

Sri Premananda Samaddar
Vs.
Sri Anup Kumar Biswas

Mr. Sourav Banerjee

...for the Petitioner

This application pertains to abnormal delay in disposal two complaint cases, presently pending before the learned Judicial Magistrate, 8th Court, Alipore.

Petitioner's contention is that he lodged a complaint being no. 4897 of 2005 before the learned Judicial Magistrate under Section 138 of the N.I. Act against one Anup Kumar Biswas for dishonour of cheque amounting to Rs. 25,00,000/-. As a counter-blast to the said case, said Anup Kumar Biswas filed a complaint case being C-4255 of 2005 alleging that the said cheque which was dishonoured, has been stolen by the petitioner herein. Therefore, said Anup Kumar Biswas filed a revisional application before this High Court being CRR 3340 of 2007 for quashing of the proceeding filed by the petitioner under Section 138 of the N.I. Act being C-4897 of 2005.

This High Court by an order dated 21st January, 2008 directed that both the cases will be heard simultaneously and the learned Trial Judge will pass the judgments one after another on the same day after conclusion of trial.

Pursuant to such order, the record of both the cases were transferred before the learned Judicial Magistrate, 8th

Court, Alipore for trial. Thereafter, on 19.5.2018 when the two cases were taken up, it was found that the record of complaint case being C-4255 of 2005 was not traceable and since then, the hearing of both the cases have been stalled and as a result, both the matters are pending for last 20 years before the Trial court and the learned Trial Judge is passing stereotype orders on each occasion for the last 7 years which has also not been complied by the concerned department nor any effective step has been taken to trace the record. Accordingly, the petitioner has prayed for a direction upon the Trial court to take effective steps in tracing the record of C-4255 of 2005 and if such record could not be traced then the Trial court may be directed to reconstruct the record following the procedure.

Having heard learned counsel for the petitioner, it appears that if the present application is disposed of in terms of the prayer made by the petitioner, the opposite party will have no cause to prejudice and as such, the service of copy of application upon the opposite party is hereby dispensed with.

Having considered the submissions made by learned counsel for the petitioner and also considering the long pendency of the above-mentioned cases, I find that the prayer made by the petitioner is justified and required to be allowed for the ends of justice. Therefore, invoking this court's jurisdiction under Section 483 of the Code read with Section 529 of the BNSS, the Trial court is directed to trace the case record of C-4255 of 2005 at the earliest and if it is not traceable within a period of one month, the Trial court will fix up

responsibility and if required, the Trial court will start departmental proceeding against the erring staff.

Liberty is also given to the court below to go for reconstruction of the said record following the procedure if the same remains untraceable and after reconstruction to resume the trial of both the cases preferably within a period of 60 days thereafter.

In such view of the matter, CRR 3475 of 2025 is hereby disposed of.

Urgent Photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)