

Item No. 01.08.2025
28

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION

Ct 03

CRR 134 of 2025

With

IA NO: CRAN 3 of 2025

rup

Nuddea Plantations Limited & Ors.

Vs.

The State of West Bengal & Anr.

Mr. Bhaskar Roy Mahasaya,
Ms. Ambalika Ghosh.

... for the petitioners.

Mr. Utpal Saha,
Ms. Puja Bhupal

... for the opposite party No.2.

1. This revisional application has been filed assailing the order of taking cognizance of an offence alleged in an application under Section 138 of the Negotiable Instruments Act (In short N.I. Act) beyond the statutory period without being satisfied about the sufficient reason of delay caused in lodging of complaint within the prescribed period of limitation as per proviso to Clause (b) of Section 142 of the N.I. Act.
2. Here, in this case both the learned counsel appearing on behalf of the parties are ad idem of the fact that one application under Section 5 of the Limitation Act has already been filed before the Court for consideration of the reason of delay but that application is still pending before the Court.

3. Learned counsel appearing on behalf of the opposite party in his usual fairness has submitted that the matter may be remanded back with a direction upon the concerned Magistrate to hear out the application and proceed with the matter, according to provision of the N.I. Act.
4. It is trite law that language employed under proviso to Clause (b) of the Section 142 of the N.I. Act is *pari materia* to Section 5 of the Limitation Act. Plain reading of Section 29(2) of the Limitation Act, would make it apparent that the provision of the Limitation Act shall apply to a case even under the Special Act unless expressly excluded by the same law. It is not disputed that scheme and object of the N.I. Act does not contain any explicit language in the provisions that exclude the operation of Sections 4 to 24 of the Limitation Act.
5. Therefore, on a conjoint reading of the provisions of Section 29(2) of the Limitation Act along with all the Sections of N.I. Act, I have no hesitation to observe that there is no bar for applicability of Section 5 of the Limitation Act in case of an application filed under N.I. Act, beyond the statutory period.
6. Accordingly, all subsequent orders passed by the

Learned Judicial Magistrate, Siliguri stand set aside.

7. Learned Judicial Magistrate, Siliguri is requested to dispose of the application under Section 5 of the Limitation Act after affording an opportunity of hearing to both the parties to the case and proceed with the matter according to provision of the Act.
8. With the aforesaid observation, the revisional application stands disposed of.
9. Connected applications, if any, also stand disposed of accordingly.
10. Interim order, if any, also stands vacated.
11. Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.
12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court

(Bibhas Ranjan De, J.)