

CRIMINAL REVISION

Present: **The Hon'ble Justice Ashim Kumar Roy**

C.R.R. No. 479 of 2010

Judgment On: 31-03-2010.

M/s. Hillman Hosiery Mills Pvt. Ltd.

Versus

Pawan Kumar Kandoi

POINTS:

EXPEDITIOUS TRIAL-Dishonor of cheque-Accused released on bail-Recording of plea fixed after about four months-Approach of the Learned Court, whether erroneous - Negotiable Instruments Act, 1881 S.143-Code of Criminal Procedure,1973,S.483

FACTS:

The petitioner, who is a complainant of a case relating to an offence punishable under Section 138 of the Negotiable Instruments Act, has approached this Court for a direction for expeditious conclusion of the trial invoking Section 483 of the Code of Criminal Procedure. The petitioner produced before the Court a copy of Indiapost : Speed Net-Detailed Movement, dated February 3, 2010, showing that the service was effected upon the opposite party on February 22, 2010 and the same is with the records.

HELD:

The criminal case under Section 138 of the Negotiable Instruments Act involving dishonour of a cheque of Rs. 1,00,000/- was instituted upon filing of a complaint on May 8, 2009. Thereafter, on November 27, 2009 the accused/opposite party in response to the summons appeared in Court and was released on bail. On that very day itself, May 20, 2010 was fixed for recording of plea, i.e., nearly after about four months and twenty-three days. This approach of the Learned Court below is clearly erroneous and contrary to the mandate of the provisions of Section 143 of the Negotiable Instruments Act. Para-4

The Court disposes of this application, directing the Learned Magistrate to conclude the trial positively within two months from the next date fixed. The Learned Magistrate shall proceed strictly in terms of the provisions of Section 143 of the Negotiable Instruments Act. Para-5

For Petitioner: Mr. Debangana Bhattacharya

Mr. Soumitra Saha

THE COURT:

1. Invoking Section 483 of the Code of Criminal Procedure, the petitioner, who happened to be the complainant of a case relating to an offence punishable under Section 138 of the Negotiable Instruments Act, has approached this Court for a direction for expeditious conclusion of the trial.

2. Heard the Learned Counsel appearing for the petitioner, but in spite of repeated calls, none appeared on behalf of the opposite party. Affidavit of service is with the records.

3. The Learned Counsel for the petitioner produced before this Court a copy of Indiapost : Speed Net-Detailed Movement, dated February 3, 2010, showing that the service has been effected upon the opposite party on February 22, 2010 and the same is with the records.

4. Now, having gone through the materials on record, I find that the aforesaid criminal case under Section 138 of the Negotiable Instruments Act involving dishonour of a cheque of Rs. 1,00,000/- was instituted upon filing of a complaint on May 8, 2009. Thereafter, on November 27, 2009 the accused/opposite party in response to the summons appeared in Court and was released on bail. I further find on that very day itself, May 20, 2010 has been fixed for recording of plea, i.e., nearly after about four months and twenty-three days. This approach of the Learned Court below is clearly erroneous and contrary to the mandate of the provisions of Section 143 of the Negotiable Instruments Act.

5. I dispose of this application, directing the Learned Magistrate to conclude the trial positively within two months from the next date fixed. The Learned Magistrate shall proceed strictly in terms of the provisions of Section 143 of the Negotiable Instruments Act.

6. This application, thus, stands disposed of.

7. Criminal Section is directed to deliver urgent Photostat certified copy of this Judgment to the parties, if applied for, as early as possible.

(Ashim Kumar Roy, J.)