

Criminal Revision

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

C.R.R. No. 500 of 2010
With
C.R.R. No. 501 of 2010
Judgment On: 16-04-2010.

Sudhir Kumar Chowhan
versus
Rajnish Gupta

POINTS:

EXPEDITIOUS TRIAL - Proceeding is pending in the Trial Court in clear violation of Section 143 of the Negotiable Instruments Act- Whether the case should be disposed of expeditiously - Negotiable Instruments Act, 1881 S.143

FACTS: The petitioner is a complainant of two criminal cases relating to an offence punishable under Section 138 of the Negotiable Instruments Act, both pending before the Learned Judicial Magistrate, 2nd Court, Howrah.

It appears that in connection with both the cases, although the plea of the accused was recorded but till date not a single witness has been examined. The progress of the trial after examination of the accused under Section 251 of the Code has been halted due to the reason that the accused did not appear in the Court and finally upon execution of a warrant of arrest, he was brought before the Court, and a date for recording of evidence in both the matters has been fixed. Hence an application for a direction for expeditious conclusion of the trial relating to the same.

HELD:

Having regard to the materials on record, the Court has no doubt that the aforesaid proceeding is pending in the Trial Court in clear violation of Section 143 of the Negotiable Instruments Act. Therefore, the Learned Trial Court is directed to proceed with the trial of the case strictly in terms of Section 143 of the Negotiable Instruments Act and the same shall be concluded as expeditiously as possible and preferably within two months from the next date fixed for recording of evidence. The trial must be proceeded on continuous basis and no adjournment be granted unless the Court feels, the same is necessary for ends of justice. Paras-4&5

For Petitioner : Mr. Mahendra Prasad Gupta

For Opposite Party: Mr. Abhijit Boral

THE COURT:

1. By moving C.R.R. No. 500 of 2010 and C.R.R. No. 501 of 2010, the petitioner, who happened to be the complainant of two criminal cases relating to offence punishable under Section 138 of the Negotiable Instruments Act, both pending before the Learned Judicial Magistrate, 2nd Court, Howrah, moved this Court for a direction for expeditious conclusion of the trial relating to the same.

Since in both the aforesaid criminal revisions, complainant prayed for a direction for expeditious disposal of the trial and the parties are same, both the matters are taken up together for hearing.

2. Heard Mr. Mahendra Prasad Gupta, learned advocate, appearing for the petitioner and Mr. Abhijit Boral, learned advocate, appearing for the opposite party.

3. It appears that the Complaint Case No. 39C/2008, now pending before the Learned Judicial Magistrate, 2nd Court, Howrah was registered on the basis of a complaint filed in Court on January

15, 2008 while the Complaint Case No. 64C of 2008, pending before the self-same Court was registered on the basis of the complaint filed on January 24, 2008. In the first case, the cheque amount was Rs. 2,50,000/- while in the second case, it was Rs. 4,40,000/-. It further appears that on June 24, 2008 in connection with both the cases, although the plea of the accused was recorded but till date not a single witness has been examined. The progress of the trial after examination of the accused under Section 251 of the Code has been halted due to the reason that the accused did not appear in the Court and finally upon execution of a warrant of arrest, he was brought before the Court, and a date for recording of evidence in both the matters has been fixed on 10th of March, 2010.

4. Having regard to the materials on record, this Court has no doubt that the aforesaid proceeding is pending in the Trial Court in clear violation of Section 143 of the Negotiable Instruments Act.

5. I, therefore, direct the Learned Trial Court to proceed with the trial of the case strictly in terms of Section 143 of the Negotiable Instruments Act and the same shall be concluded as expeditiously as possible and preferably within two months from the next date fixed for recording of evidence. The trial must be proceeded on continuous basis and no adjournment be granted unless the Court feels, the same is necessary for ends of justice.

6. This criminal revision is, thus, 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.)