

Court
No. 32
Item 53
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29.01.
2021

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

C.R.R. 1691 of 2020

Amrapali Bose

Versus
The State of West Bengal & Anr.

For the Petitioner : Mr. Arindam Jana
Mr. Soumajit Chatterjee

For the State : Mr. Rana Mukherjee,
Mr. Santanu Chatterjee

For the Opposite Party No. 1 : Mr. Ayan Bhattacharya

Heard on : 29.01.2021

Judgement on : 29.01.2021

Jay Sengupta, J. :

This is an application challenging an order dated 11.12.2019 passed by the learned Additional Sessions Judge, Fast Track 2nd Court, City Sessions Court, Kolkata in Criminal Revision No. 02 of 2019, thereby dismissing the revisional application filed by the petitioner on the ground of non-maintainability.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is an accused in a case under Section 138 of the Negotiable Instrument Act. An undated letter purportedly written by the accused petitioner was sought to be exhibited by the complainant. The petitioner raised objection and made an application that the letter be sent to a handwriting expert. The same was turned down. On the next date the petitioner made an application for adjournment so that she could move the higher court challenging the earlier order. The same was refused and cross-examination of P.W.1/complainant was closed. The petitioner challenged two orders before the learned Sessions Court. The learned revisional Court erred in holding that two orders passed in the same

proceeding cannot be challenged in a single revision. Reliance is placed on the decision of this Court in **Debendra Nath Das -vs- Bibhuti Paul & ors.** reported in **1995 CrLJ 2010** in this regard.

Learned counsel appearing on behalf of the complainant-opposite party submits as follows. The complainant is not disputing the settled position of law that two such orders could be challenged in a single revision. However, the application for sending the letter to handwriting expert should be entertained after examination of the accused under Section 313 of the Code. On this reliance is placed on Kalyani Baskar -vs- M.S. Sampoornam reported in **(2007) 2 SCC 258**. The instant case is pending since 2016. A direction may be passed for expeditious conclusion of the proceeding and in the interest of justice, a single day's opportunity may be granted to the petitioner to cross-examine the complainant/PW-1.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the revision petition.

In view of the above decision of this Court in

Debendra Nath Das (supra), it is abundantly clear that two such orders as referred to above can be challenged in a single revision. Hence, the impugned order needs to be interfered with.

It is not that the signature on the cheque is being questioned. Moreover, the challenge to the signature on the forwarding letter has already been noted and the issue might become clearer after the examination of the accused under Section 313 of the Code. Therefore, I agree with the contention of the learned counsel for the complainant-opposite party that an application by the Defence to send the document relied upon by the prosecution to a handwriting expert can best be entertained after examination of the accused under Section 313 of the Code in the facts and circumstances of the present case.

It appears that the petitioner's prayer for a day's accommodation for moving the superior court was refused by the learned trial court. As a result, the cross-examination of the complainant was closed. This also needs to be corrected.

In view of the above and in the interest of justice, the impugned order is set aside. The orders of the learned

trial Court dated 05.11.2018 and 27.11.2018 are also set aside. It is directed that the learned trial court shall grant a single day's opportunity to the accused to cross-examine the complainant/P.W.1 and shall consider the application for sending the letter in question to a handwriting expert after examination of the accused under Section 313 of the Code is over.

The learned trial court is further requested to conclude the proceeding as expeditiously as possible without granting any unnecessary adjournment to any of the parties.

With these observations, the revisional application is disposed of.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J.)