

**IN THE COURT OF THE ADDITIONAL DISTRICT & SESSIONS' JUDGE
2ND FAST TRACK COURT, CITY SESSIONS COURT,
BICHAR BHAVAN, CALCUTTA.**

-::- Present -::-

Smt. Shrutirupa Ghosh (Majee)

Additional District & Sessions Judge.
2nd Fast Track Court, Bichar Bhavan. Calcutta.
J. O. Code No. WB-00821

Criminal Revision No. 33 of 2023
CNR No. WBCS01-000165 of 2023

Arising out of the order dated 24. 08. 2022 passed by Ld.
Metropolitan Magistrate, 18th Court, Calcutta in connection
with CS Case No. 0039882 of 2015.

SRMB Srijan Private Limited

..... Petitioner/Revisionist.

Vs

- (1). The State of West Bengal and
- (2). Karan Kushwaha.

.....Respondents/OPs.

Date of Judgment:- 6th day of May, 2025.

-::- J U D G M E N T -::-

The present Criminal Revision being No. 33 of 2023 has been brought by the petitioner/revisionist, namely SRMB Srijan Private Limited (represented by Mr. Anirban Das) being aggrieved by the order passed by Ld. Metropolitan Magistrate, 18th Court, Calcutta in connection with CS Case No. 0039882 of 2015 whereby Ld. Magistrate had been pleased to dismiss for default the instant case and the accused person was acquitted under Section 256(1) CrPC.

-::- POINTS FOR DETERMINATION -::-

Whether the Order passed by Ld. Metropolitan Magistrate, 18th Court, Calcutta dated 24. 08. 2022 was legal, proper and correct ?.

-::- DECISION WITH REASONS -::-

The present petitioner/revisionist, namely, SRMB Srijan Private Limited (represented by Mr. Anirban Das) has preferred this instant Criminal Revision being aggrieved and dissatisfied by the order dated 24. 08. 2022, passed by Ld. Metropolitan Magistrate, 18th Court, Calcutta before the Ld. Chief Judge, City Sessions Court, Calcutta, who after admitting the same, transferred it to this Court for disposal.

The brief facts of the revisionist case is that the revisionist/complainant filed a complaint case being No. CS/0039882/2015 under Section 138 of Negotiable Instrument Act before the Ld. Chief Metropolitan Magistrate, Calcutta which

was transferred to the Court of Ld. Metropolitan Magistrate, 18th Court, Calcutta for trial and disposal. During pendency of the case, Ld. Metropolitan Magistrate, 18th Court was pleased to transfer the instant case to the Lok Adalat vide its order dated 12. 03. 2022 and although the case was not settled before the Lok Adalat, yet the case record remained there for a considerable period of time. Thereafter, the revisionist/complainant by Court's searching through his Ld. Advocate, came to know that the case was received from the Lok Adalat and was dismissed for default under Section 256 CrPC on 24. 08. 2022 as no steps were taken on behalf of the revisionist/complainant. The revisionist/complainant further stated that there were no willful latches on the part of the revisionist/complainant as he was not aware of the date of the case prior to 24. 08. 2022 and as such was unable to attend the Court on the said date when the matter was fixed for show-cause and was finally dismissed.

At the time of hearing, Ld. Advocate on behalf of revisionist/complainant submitted that Ld. Magistrate dismissed the case without hearing on merit. Ld. Advocate further submitted that the non-appearance of the revisionist/complainant before the Ld. Trial Court on the mentioned dates was due to lack of knowledge of the revisionist/complainant when the case record was received back from Lok Adalat. He thus, prayed for restoration of the original complaint case on bonafide grounds.

Heard Ld. Advocate on behalf of State/Respondent No. 1.

This Revision has come up for hearing the matter ex-parte against Opposite Party No. 2 vide order of Ld. Chief Judge, City Sessions Court, dated 03. 08. 2023.

The moot point for consideration before this Court is whether a complaint which has been dismissed under Section 256(1) CrPC can be restored and revived.

The original complaint case against which the present Revisional Application has been filed was a case under Section 138 Negotiable Instruments Act on account of dishonour of cheque issued by the accused in favour of the complainant in discharge of his debt/liability.

It is pertinent to mention here that a complaint case under Section 138 Negotiable Instrument Act is quasi-civil in nature. The present discussion need to be restricted only to the legality of the order dated 24. 08. 2022 passed by Ld. Metropolitan Magistrate, 18th Court, Calcutta thereby dismissing the complaint case and acquitting the accused person.

Upon perusal of the entire Trial Court Record, I do not find any order dated 12. 03. 2022 as alleged by the revisionist/complainant that vide order dated 12. 03. 2022, Ld. Trial Court was pleased to transfer the instant case to Lok Adalat. Nor is there any noting as to receiving back of the case record from Lok Adalat. Had the case record been transferred to Lok Adalat, there would have been an order of the Ld. Trial Court. Hence, I am not satisfied as regards this contention of the revisionist/complainant regarding transfer of the case record to Lok Adalat or non receiving back of the case record from the Lok Adalat for a considerable period of time.

However, I find that the complainant/revisionist was diligent to appear before the Court on dates prior to the date of show-cause. The case is at the stage of examination of the accused under Section 313 CrPC. Hence, I consider that the revisionist/complainant should be given a fair opportunity to proceed with his case to its conclusion on merit.

Moreover, the order of dismissal was passed without hearing the case on merit and the dismissal order was passed only due to absence of the complainant.

I consider that the complainant may have a bonafide case for trial. I consider that an opportunity be given to the complainant/revisionist for hearing of the case on merit.

In view of the above mentioned observations, I consider that the impugned order of dismissal dated 24. 08. 2022 passed by Ld. Trial Court be set aside.

It is, accordingly,

ORDERED

That the Criminal Revision being No. 33 of 2023 is hereby allowed on merit on contest against the State/Opposite Party No. 1 and ex-parte against Opposite Party No. 2 but without any cost.

The Complaint Case No. CS/0039882 of 2015 is restored to its original file and number.

Ld. Trial Court is directed to dispose of the complaint case on merit.

The complainant/revisionist is directed to take steps upon the Opposite Party No. 2/accused person before the Ld. Trial Court.

Thus, the Criminal Revision is hereby disposed of.

Interim order of stay, if any, is hereby vacated.

Let a copy of this order along with the TCR be sent to Ld. Metropolitan Magistrate, 18th Court, Calcutta for information.

Dictated & Corrected by me.

Sd/-

Shrutirupa Ghosh (Majee)
Addl. Dist. & Sessions Judge
(WB-00821)
2nd Fast Track Court
City Sessions Court,
Bichar Bhawan, Calcutta
06. 05. 2025

Sd/-

Shrutirupa Ghosh (Majee)
Addl. Dist. & Sessions Judge
(WB-00821)
2nd Fast Track Court
City Sessions Court,
Bichar Bhawan, Calcutta
06. 05. 2025

No. _____.

Dated: _____/2025.

Copy forwarded for information and taking necessary action to :-

The Ld. Metropolitan Magistrate, 18th Court, Calcutta.

Addl. Dist. & Session Judge
(WB-00821)
2nd Fast Track Court
Bichar Bhawan, Calcutta