

137 C of 2023

Order dated 07.07.2025:-

Today is fixed for hearing of the non maintainability petition dated 30.04.2025.

Ld. Advocate for the accused person files a petition praying for adjournment on the grounds of absence of the accused person.

The complainant is present by filing hazira.

Ld. Advocate for the complainant is also present.

Heard. Considered.

It appears from the record that the instant case has been fixed for evidence since 27.03.2024 and the accused on 30.04.2025 filed the instant petition on the ground of non-maintainability.

As such the petition for adjournment by the accused person cannot be considered and hence rejected.

The petition for non-maintainability is taken up for hearing.

Ld. Advocate for the accused submits that the instant case is not maintainable and hence be rejected as payment has already been made by the accused person as such the accused person does not have any liability to make any further payment. Further the case is defective and hence liable to be rejected.

Ld. Advocate for the complainant on the other hand submits that already trial has commenced in the instant case and the accused person at the time of receiving of demand notice had ample opportunity to make his case but he did not do so. As such at this stage the instant petition is vague and hence liable to be rejected.

Heard. Considered.

It appears from the record that the case was instituted on 20.03.2023 and the accused after receiving the summons appeared on 31.08.2023 thereafter, plea was dispensed with on 16.01.2024 but till then also and despite being having opportunity did not take proper steps, although the accused person claims that the case is not maintainability against him.

Trial has already been started since 27.03.2024 and at this juncture the accused person filed the instant case. Thus, it simply denotes that the accused is intending to delay the case and I do not find any merit in the instant petition.

Hence, it is,

ORDERED

that the petition dated 30.04.2025 is hereby rejected on contest and disposed of.

To 01.09.2025 for hearing of the petition under Section 143A N.I. Act.

W/O if any in the meantime.

Both parties are directed to remain present on the next date positively.

D.C by me

**Judicial Magistrate, 1st Class,
5th Court, Howrah.**