

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CRIMINAL MISCELLANEOUS JURISDICTION)**

Present:

Mr. Justice Md. Khairul Alam

and

Mr. Justice Md. Sagir Hossain

Criminal Miscellaneous Case No. 44748 of 2024.

Md. Gazi Abdul Khaleque

.....Petitioner.

-Versus-

The State and another.

..... Opposite parties.

Mr. Lokman Karim, with

Mrs. Airun Nur Chowdhury, Advocates.

..... For the petitioner.

Mr. Sarkar Prosad Dey, Advocate

..... For the opposite party No.02.

Heard & Judgment on: 26.01.2026.

Md. Khairul Alam, J:

This Rule was issued on an application under section 561A of the Code of Criminal Procedure, 1898, at the instance of the petitioner, Md. Gazi Abdul Khaleque, calling upon the opposite parties to show cause as to why the Order No. 07 dated 08.06.2023 passed by the learned Additional Metropolitan Sessions Judge, 6th Court, Chattogram in Criminal Revision No. 1178 of 2022, rejecting the revision and thereby affirming the order dated

10.10.2022 passed by the learned Joint Metropolitan Session Judge, 5th Court, Chattogram in S.T. Case No. 3582 of 2020 rejecting an application under section 344 of the Code of Criminal Procedure should not be quashed and/or such other or further order or orders be passed as to this Court may seem fit and proper.

Facts relevant for disposal of the Rule are that the present opposite party No. 2 namely, Mst. Ranu Begum, as complainant, instituted two criminal cases against the present accused-petitioner. One of them is C.R. Case No. 361 of 2019 under sections 143/447/448/307/379/380/323/325/406/420/506/34 of the Penal Code, now pending before the learned Metropolitan Magistrate, 2nd Court, Chattogram. The other is C.R. Case No. 107 of 2020 under section 138 of the Negotiable Instruments Act, 1881, which was subsequently renumbered as S.T. Case No. 3582 of 2020 and is now pending before the learned Joint Metropolitan Sessions Judge, 5th Court, Chattogram. Claiming that both the cases arose out of the same transaction, the accused-petitioner filed an application under section 344 of the Code of Criminal Procedure praying for stay of the subsequent

proceeding till disposal of the earlier one. The learned Joint Metropolitan Sessions Judge, 5th Court, Chattogram, by order dated 10.01.2022, rejected the said application holding, *inter alia*, that the same was not maintainable. Against the said order, the accused-petitioner preferred Criminal Revision No. 1178 of 2022 before the Court of Metropolitan Sessions Judge, Chattogram, which was heard and disposed of by the learned Additional Metropolitan Sessions Judge, Chattogram, who by the impugned judgment and order dated 08.06.2023 dismissed the revision.

Being aggrieved thereby, the accused-petitioner moved this Hon'ble Court and obtained the present Rule along with an order of stay of the impugned proceedings.

Mr. Lokman Karim, learned Advocate appearing on behalf of the petitioner, submits that since both the cases arose out of the same transaction, continuation of the subsequent proceeding before disposal of the earlier one would cause serious prejudice to the petitioner and, as

such, the subsequent case ought to be stayed in the interest of justice.

On the other hand, Mr. Sarkar Prosad Dey, learned Advocate appearing for opposite party No. 2, submits that the causes of action as well as the nature of offences involved in the two cases are distinct and separate and therefore, there is no scope under section 344 of the Code of Criminal Procedure to stay a proceeding initiated under a special law like the Negotiable Instruments Act.

We have heard the learned Advocates for the parties, gone through the application, and perused the materials on record, including the petitions of complaint of both cases.

It is admitted that two criminal cases were filed against the present accused-petitioner, one under various sections of the Penal Code, pending before the learned Metropolitan Magistrate, and the other under section 138 of the Negotiable Instruments Act, pending before the learned Joint Metropolitan Sessions Judge.

Upon a comparative reading of the petitions of complaint of both cases, it is evident that the causes of

action, the nature of the allegations, and the essential ingredients of the alleged offences are distinct and not identical. The adjudication or outcome of one case does not have any direct bearing upon, nor does it bear any nexus with, the adjudication of the other. In such circumstances, both the Courts below rightly held that there existed no reasonable or lawful ground to adjourn the subsequent proceedings pending disposal of the earlier case.

In view of the facts and circumstances discussed above, we find no merit in the Rule.

Accordingly, the Rule is discharged without any order as to costs.

The order of stay passed at the time of issuance of the Rule is hereby recalled and vacated.

Let a copy of this judgment and order be communicated to the concerned Court at once.

Md. Sagir Hossain, J.

I agree.