

Form J(1)

**IN THE HIGH COURT AT CALCUTTA  
Criminal Revisional Jurisdiction  
Appellate Side**

**Present :  
The Hon'ble Justice Bibek Chaudhuri**

**C.R.R. 1377 of 2023**

***Shahnawaz Khan  
Vs.  
The State of West Bengal***

**For the petitioner : Mr. Sandipan Ganguly, Sr. Adv.  
Mr. Dattatreya Dutta, Adv  
Mr. Aritra Bhattacharya, Adv.**

**Heard on : 13.04.2023.**

**Judgment On : 13.04.2023.**

**Bibek Chaudhuri, J.**

In R. Viswanathan & Ors reported in AIR 1963 Supreme Court 1, the Hon'ble Justice M. Hidayatullah (as His Lordship then was) held:-

"The rule of law about judicial conduct is as strict, as it is old. No Judge can be considered to be competent to hear a case in which he is directly or indirectly interested. A proved interest in a Judge not only disqualifies him but renders his judgment a nullity. There is yet another rule of judicial conduct which bears upon the hearing of case. In that, the Judge is expected to be serene and even-handed, even though his patience may be sorely tried and the time of the Court

appear to be wasted. This is based on the maxim which is often repeated that justice should not only be done but should be seen to be done. No litigant should leave the Court feeling reasonably that his case was not heard or considered on its merit. If he does, then justice, even though done in the case, fails in the doing of it."

While quoting this above observation, which, if I permitted to use the word, should be treated as the basic structure or basic framework of making of a Judge, I at the outset like to point out that the petitioner never made any allegation against the concerned Judge that he is directly or indirectly interested in that case. But his serenity and calmness is in question. It is true that that the learned Judge is anxious to dispose of a case but its logical conclusion hearing argument of both sides. At the same time, he must be aware of the fact that an Advocate who is predominantly practicing in High Court may not be able to appear on the date fixed by the Court. Therefore, a Judge must be amenable to adjustment of dates according to the request of the learned Advocate. At the same time, this Court also does not speak about such adjustment in each and every case. It is where the discretion of a Judge comes into play. Whenever we are talking about discretion, it must be judicious and not arbitrary. Fixing dates repeatedly immediately on the next date shows that the learned

Judge trying to over power the learned defence Counsel putting him in some sort of trouble.

An Advocate is also an Officer of the Court. In adversarial justice delivery system, an Advocate is not an adversary but truly speaking an *amicus* appearing for the parties to help the Judge to take final decision in a lis.

I have personally asked Mr. Milon Mukherjee, learned Senior Counsel when he would be able to argue the case. It is submitted by him that he will personally appear before the learned Judge and the date may be fixed on 6<sup>th</sup> May, 2023.

Therefore, the instant revision is disposed of requesting the learned Trial Judge to adjourn the hearing of the case for this day and fix 6<sup>th</sup> May, 2023 for argument on behalf of the defence.

**(Bibek Chaudhuri, J.)**

**Mithun De/  
A.R. (Ct).  
SI No.16.  
D/L.**