

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 482 of 2022

Rashmi Metaliks Limited & Ors.

Versus

The State of West Bengal & Another

For the Petitioners : Ms. Sutapa Sanyal, Adv.
Mr. Debrup Bhattacharya, Adv.
Ms. Pritha Ghose, Adv.

Heard on : 27.01.2026

Judgment on : 20.03.2026

Ajay Kumar Gupta, J.:-

1. The instant Criminal Revisional application under Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') has been preferred by the petitioners seeking quashing of the proceeding being Case No. C-5326 of 2015 under Section 220(3) read with Section 149

of the Companies Act, 2013, pending before the Court of the Learned Chief Judicial Magistrate at Alipore, South 24 Parganas, including the order dated September 19, 2015, passed in connection therewith.

FACTS OF THE CASE: -

- 2.** The brief facts, leading to the filing of this instant Criminal Revisional application, are as follows: -
 - a.** The Petitioner no. 1 is a company within the meaning of the Companies Act, 2013, duly incorporated under the provisions of the Companies Act, 1956. It is an unlisted company. The Petitioner nos. 2 and 3 are Directors of the Petitioner no. 1/company. The opposite party no. 2 is the complainant.
 - b.** It is the case of the Petitioners that the Second Proviso to Section 149(1) of the Companies Act, 2013 was introduced by Rule 3 of Companies (Appointment and Qualification of Directors) Rules, 2014, which came into force on 1st April, 2014 that provides, *inter alia*, that every class of companies that may be prescribed shall appoint one woman director within one year from the commencement of the Act i.e. within March 31, 2015.
 - c.** Similar provisions were also introduced for listed companies by way of amendments in the listing agreement, which were made applicable with effect from 1st October 2014, and the time for compliance was subsequently extended up to 31st March, 2015 to

adopt best practices of corporate governance and to make the same more effective. According to the petitioners, even though the Petitioner no. 1/Company is an unlisted company, it nevertheless ensures compliance with the aforesaid statutory requirement by appointing Ms. Sanghavi as a woman director with effect from 3rd January, 2015. The appointment was made pursuant to a resolution passed at a Board Meeting of the Petitioner no. 1 Company on the same date at its registered office.

- d.** Despite such compliance, the opposite party no. 2 issued a show cause notice dated 22nd June, 2015, thereby seeking an explanation for non-compliance with the aforesaid provisions of law.
- e.** The petitioners stated that the concerned officer of the company, who was responsible for dealing with the said matter, had left the office, and the company had recently found that he had shown gross negligence by not replying to the Show Cause Notice.
- f.** Accordingly, steps were taken to upload DIR-12 with the office of the Registrar of Companies upon payment of the assessed penalty charged by the concerned department for causing a delay in filing the said form. Upon payment of the said penalty of Rs. 7,200/- (Seven Thousand Two Hundred) only, a receipt recording SRN: C65800658 was issued in favour of the petitioner no. 1 - company

and, accordingly, the Form DIR 12 was uploaded in the portal maintained with the Registrar of Companies on October 6, 2015 wherefrom it transpires that Ms. Kirti Sanghavi (DIN 06983908) was appointed as a woman director.

g. Subsequently, the petitioners came to learn that a proceeding is pending before the Learned Chief Judicial Magistrate at Alipore wherein an allegation has been levelled against the petitioners for violation of the provisions of Section 149 of the Companies Act, alleging, *inter alia*, that the petitioner no. 1 - company has not appointed a woman director.

h. Upon discovering the said proceeding, the petitioner no. 1 - company, considering the Form DIR 12 had to be filed, upon payment of cost of Rs. 7,200/- (Seven Thousand Two Hundred) only for delay in uploading the data only on October 6, 2015 addressed a communication to the Registrar of Companies by its letter dated June 23, 2016, enclosing documents to substantiate its claim that already with the scheduled time frame as provided under Section 149 of the Companies Act, 2013 read with Rule 3 of Companies (Appointment and Qualification of Director) Rules, 2014, the appointment of Ms. Kirti Sanghavi (DIN 06983908) as woman director in the petitioner no. 1 - company under the provisions of the Companies Act, 2013 was done way back on

January 3, 2015 in strict compliance of the relevant laws/rules framed regarding appointment of women director within a stipulated timeframe.

- i.** The said proceeding pending before the Learned Chief Judicial Magistrate at Alipore is still pending wherein the next date had been fixed for service on April 1, 2022 based on the allegation of violation of Section 149 of the Companies Act for non-appointment of women director, the said complaint being registered before the Learned Chief Judicial Magistrate at Alipore, South 24 Parganas bearing Case No. C-5326 of 2015 wherein the Learned CJM was pleased to take purported cognizance of the offence without examining the complainant under Section 200 of CrPC about the existence of a prima facie case and also upon dispensation of the personal attendance under section 256 of CrPC r/w Section 621(1A) of the Companies Act, 1956.
- 3.** In view of the aforesaid facts and circumstances, the petitioners stated that the instant proceeding is an abuse of the process of law. Hence, this application.

SUBMISSION ON BEHALF OF THE PETITIONERS: -

- 4.** Learned counsel appearing on behalf of the petitioners submitted that the petitioners are innocent and have duly complied with the provisions as laid down in Section 149 of the Companies Act, 2013,

read with Rule 3 of (Appointment and Qualification of Director) Rules, 2014. The company has also paid the penalty imposed. It is further contended that the proceeding against the petitioners is purely an abuse of process of law, and the same is liable to be quashed to secure the ends of justice.

5. None appeared on behalf of the opposite parties. No accommodation was sought for.

DISCUSSIONS, ANALYSIS AND CONCLUSION OF THIS COURT: -

6. Having heard the learned counsel appearing on behalf of the petitioners and upon consideration of the materials on record, this court is of the considered view that as per the provision laid down in Section 149 of the Companies Act, 2013 read with Rule 3 of Companies (Appointment and Qualification of Directors) Rules, 2014, came into force on April 1, 2014, every class of companies that may be prescribed shall appoint one woman director within one year from the commencement of the Act i.e. within March 31, 2015.
7. The petitioners ought to have appointed a woman director within one year from the commencement of the Act. The records of the petitioner no. 1 - company reveal that the petitioner no. 1 - company had appointed Ms. Kirti Sanghavi (DIN: 06983908) as a woman director by a resolution passed at the meeting of the Board of Directors held on 3rd January, 2015, which is well within the statutory timeframe

prescribed under the aforesaid provisions. The delay, if any, pertains only to the uploading of Form DIR-12 before the Registrar of Companies, which was subsequently filed on 6th October, 2015 upon payment of the prescribed penalty. It is an admitted fact that the Petitioners uploaded the name of the newly appointed woman Director on 6th October, 2015, and, thereafter, communicated to the Registrar of Companies by its letter dated June 23, 2016. Such disclosure is after lodging of the aforesaid complaint.

- 8.** The petitioners also failed to disclose to this court as to when the newly appointed Director applied for a Director Identification Number (DIN), and when it was allotted in her favour. This court cannot embark upon such reliance without giving the opportunity of leading evidence to the respective parties.
- 9.** It further appears from the copy of the complaint that after issuance of instruction by the competent authority of the Ministry of Corporate Affairs to launch prosecution against the violation vide their e-mail dated 16.06.2015, the said violation was pointed out by the complainant to the accused persons by a show cause notice No. ROC/SCN/149/WD/097737/412 to 415 dated 22.06.2015, but no reply to the show cause was produced by the petitioners in the revisional application. Payment of fee for Form DIR-12 to the tune of Rs. 7,800/- on 06.10.2015 is also not supported their case.

10. In the above backdrop, it is very difficult to ascertain whether such an appointment was actually made way back in January 2015, it is a triable issue and may be decided after leading evidence by the respective parties.
11. The Revisional application is, thus, not entertainable as it fails to satisfy this court that the petitioners had really appointed the woman director in the company within 31st March, 2015, as per the provisions of Section 149 of the Companies Act, 2013
12. Accordingly, **CRR 482 of 2022** is, thus, **dismissed**. Connected applications, if any, are also, thus, disposed of.
13. Let a copy of this Judgment and Order be sent to the Learned Court below for information.
14. Interim order, if any, stands vacated.
15. All parties will act on the server copies of this Judgment and Order uploaded on the official website of this Hon'ble High Court.
16. Urgent photostat certified copy of this Judgment and Order, if applied for, is to be given as expeditiously to the parties on compliance of all legal and necessary formalities.

(Ajay Kumar Gupta, J)