

15.09.2021

Item No.18
Ct.No.34
dc.

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

C.R.R. 57 of 2012
(Via Video Conference)

**The Baksara Co-operative Credit Society Limited
versus
Sri Sanjib Das & Anr.**

In Re: An Application under Sections 401 and 482 of the Code of Criminal Procedure, 1973.

Mr. Somnath Roy Chowdhury ... For the Petitioner.

Mr. Roy Chowdhury, learned advocate appears on behalf of the petitioner.

The subject-matter of this revisional application relates to a judgment and order dated 16.11.2011 passed by learned Judicial Magistrate, 6th Court, Howrah in connection with case no. being CR No. 897C/07. By the said judgment and order, the learned Magistrate was pleased to acquit the accused person of the charges under Section 138 of the Negotiable Instruments Act. The reason so assigned by the learned Magistrate is the issue of second notice.

Having regard to the principles which have been settled by the Hon'ble Apex Court in **MSR Leathers Vs. S. Palaniappan and Another** reported in **(2013) 10 Supreme Court Cases 568** and **Sicagen India Ltd. Vs. Mahindra Vadineni And Others** reported in **(2019) AIR (SCW) 502**, I am of the view that the foundation on which the learned Magistrate acquitted the accused person is against the settled principles of law. Accordingly, the judgment and order dated

16.11.2011 passed by the learned Judicial Magistrate, 6th Court, Howrah is hereby set aside.

The learned Magistrate will rely upon the aforesaid two judgments of the Hon'ble Apex Court and arrive at a fresh finding after issuing proper notice to both the parties.

Department is directed to communicate this order to the learned Judicial Magistrate, 6th Court, Howrah who would take prompt action for issuing notice and decide the issue within a period of three months from date.

With the aforesaid observations, the revisional application being CRR 57 of 2012 is allowed.

Interim order, if any, is hereby vacated.

All pending connected applications, if any, are consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)