

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

CRR 307 of 2021

with

CRAN 1 of 2021

CRAN 2 of 2021

Binoy Biswas

Vs.

Dipankar Modak & another

For the Petitioner : Mr. Prabir Majumder
: Mr. Snehansu Majumder

For the O.P. : Mr. Sourav Mukherjee

Heard on: 23rd February, 2021

Judgment on : 23rd February, 2021

The Court:

This is an application challenging a judgment and order dated 28.03.2018 passed by the learned Additional Sessions Judge, 5th Court, Krishnagar, Nadia in Criminal Appeal No. 18 of 2016, thereby affirming the order of conviction and sentence

dated 06.06.2016 passed by the learned Judicial Magistrate, 6th Court, Krishnagar, Nadia in Complaint Case No. 144C of 2014 under Sections 138 and 141 of the Negotiable Instruments Act.

Learned counsel appearing on behalf of the petitioner submits as follows. There is a delay of about 2 years and 10 months in filing the application. The delay was aggravated due to the onset of Covid-19 Pandemic. However, in the meantime, a settlement and compromise was arrived at between the accused and the complainant-opposite party and a joint compromise application has also been filed in this regard. The learned Magistrate was pleased to convict the petitioner for the dishonour of a cheque worth Rs.60,000/- and sentenced the appellant to suffer simple imprisonment for a term of six months and to pay compensation of Rs. 80,000/- by way of compensation payable to the complainant, with a default clause. This order was confirmed by the learned Appellate Court. However, as submitted earlier, during pendency of the present proceeding, the entire amount of Rs. 80,000/- was paid to the complainant/opposite party and the private parties has decided to settle the matter and preferred the joint compromise application in this regard.

Learned counsel appearing on behalf of the complainant-opposite party submits as follows. The complainant-opposite party does not have any objection if the delay in preferring the revisional application is condoned. The complainant has settled the matter with the petitioner and received the necessary payment. In the interest of justice, the impugned judgment and order of conviction and sentence ought to be set aside on the ground of compromise and settlement.

I have heard the submissions of the learned counsels appearing on behalf of the accused/petitioner and the complainant/opposite party and have perused the revision petition and the applications being CRAN 1 of 2021 and CRAN 2 of 2021.

In view of the explanation provided in the application for condonation of delay and considering the submissions made on behalf of the private parties, I am inclined to allow the application for condonation of delay and preferring the revision.

Accordingly, CRAN 1 of 2021 is disposed of.

It appears that a compromise and settlement has indeed been arrived at between the private parties of all disputes that had led to the filing of the complaint case. The complainant

has received the necessary payment and has decided to settle the matter with the accused petitioner.

In view of the above and in the interest of justice, I quash the conviction and sentence imposed upon the present petitioner on the ground of compromise and settlement arrived at between the accused and the victim/complainant.

With these observations, the revisional application and the connected application being CRAN 2 of 2021 are disposed of.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta,J.)