

(Through Video Conference)

**10 09.09.2021**

*Dd*

**CRR 299 of 2010**  
with  
**CRAN 1/2010 (Old CRAN 2789 of 2010)(not in file)**

In the matter of : **Asit Kumar Midday**  
**Vs.**  
**Raju Bhattacharya & Anr.**

The matter is listed for hearing as contested application. Affidavit-of-service upon the Opposite Party has not been filed. On call, none appears for the petitioner and Opposite Party nos. 1 and 2.

Instant criminal revision under Sections 482 and 401 of Criminal Procedure Code has been filed by the petitioner praying for setting aside of order dated 18.07.2009 passed by Learned Additional Chief Judicial Magistrate, Uluberia in Complaint Case no. 210C of 2008 under Section 138 of NI Act.

The contention of the petitioner in his application is that during pendency of Complaint Case No. 210C of 2008, the accused compromised with him and issued a cheque of Rs. 3,30,000/- in his favour. He actually paid him Rs. 2,07,500/- on 15.04.2009 and another Rs. 10,000/- on 29.04.2009. Thereafter, a petition was filed by the accused/OP no. 1 on 16.04.2009 which was fixed for hearing but no copy was served upon the complainant. On the date fixed, learned Magistrate without hearing the complainant and in absence of his representation passed an order on 18.07.2009. On traversing the contents in the impugned order, it appears that the same is interlocutory in nature against which the criminal revision would not lie.

Considering all aspects and the fact that the petitioner/complainant did not file affidavit-of-service, the criminal revision is dismissed on its merit.

Stay order dated 9.2.2010 stands vacated.

Let a copy of this order be transmitted to learned ACJM, Uluberia with a direction to proceed with further hearing of the case, if the same is still pending.

No CRAN is available on record.

**(Ananda Kumar Mukherjee, J.)**