

28 (D/L)
25-06-2021
debajyoti

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
(Appellate Side)**

(Via Video Conference)

CRR 868 of 2018

Smt. Gouri Guha

Vs.

The State of West Bengal & Anr.

In Re: An application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973.

Mr. Debabrata Acharya

... For the Petitioner.

Mr. Biswajit Manna

... For Opposite Party No.2.

1. The petitioner happens to be a complainant in a case under Section 138 of the Negotiable Instruments Act wherein the learned trial Court by judgment dated 15-12-2017 in C.R. Case No.139 of 2014 (T.R. No.984 of 2014) was pleased to hold the accused opposite party no.2 guilty of offence under Section 138 of the Negotiable Instruments Act and sentenced him to suffer Simple Imprisonment for six months, in addition to a payment of compensation of Rs.3,00,000/-.

2. I have perused the records of the case and I find that the subject matter of the case relates to dishonour of cheque bearing no.986558 dated 09-07-2014 for an amount of Rs.1,70,000/- (Rupees One Lakh Seventy Thousand) drawn on State Bank of India, Tapan Branch, Dakshin Dinajpur

3. The accused opposite party no.2 preferred an appeal being Criminal Appeal No.1 of 2018. The learned appellate Court by a judgment and order dated 12-02-2018 was pleased to arrive at the same conclusion of guilt as that of the trial Court, but, was of the opinion that the sentence so

imposed by the trial Court, was not rational. Accordingly, the appellate Court modified the sentence to the extent that the accused/opposite party no.2 would pay a fine of Rs.2,20,000/- (Rupees Two Lakh Twenty Thousand).

4. Having regard to the pragmatic approach taken by the appellate Court in view of the amount involved, that is, Rs.1,70,000/- and the direction made by the appellate Court was almost within three and a half years of the dishonour of the cheque, the same cannot be said to be arbitrary or whimsical. In my considered view, the learned appellate Court has taken into account the object of the provisions of the Negotiable Instruments Act and the purpose for which the amendment was inserted, and by way of incorporating rigors of criminal law, compelled a defaulter to repay the amount of dishonoured cheque within a reasonable period of time.

5. Regard being had to the aforesaid observations, I do not find any cause for interference in the order passed by the learned appellate Court.

6. CRR 868 of 2018 is, accordingly, dismissed. All pending applications, if any, are disposed of. Interim order, if any, is hereby vacated.

7. Department is directed to communicate this order to the learned Court below forthwith.

8. All parties are to act on a server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)