

**CRAN 1 of 2021
in
CRR 989 of 2021
(Through Video Conference)**

In Re: - An application for extension of time for compliance of the order dated 8th April, 2021 passed in CRR No. 989/2021.

And

In the matter of: **M/s. Simoco Telecommunications (South Asia) Ltd. & Ors.**
.... Petitioners

Mr. Biswajib Ghosh,
Mr. Avirup Chatterjee

... For the Petitioners

Mr. Satadru Lahiri,
Mr. Safdar Azam

...For the Opposite Party No. 2.

Mr. Binay Panda,
Ms. Puspita Saha,
Mr. Subham Bhagat

...For the State.

By the order dated November 8, 2019, passed in a case under Section 138 of the Negotiable Instruments Act, 1881 being 23410/2008, the learned Metropolitan Magistrate, 14th Court, Calcutta sentenced the petitioners to pay a fine amount of Rs. 1,40,00000/- (Rupees one crore and forty lakh) to the opposite party no. 2 within 30 days, in default, it was directed that the petitioner nos. 2, 3, & 4 shall undergo simple imprisonment for six months each.

The petitioner sought to challenge the said order of the learned Magistrate by filing an appeal being Criminal Appeal No. 270 of 2019 before the learned Chief Judge, City Sessions Court at Calcutta.

The learned Sessions Judge in the appeal Court below on December 7, 2019, directed the appellant to deposit 20% of the fine amount.

Since the petitioners could not deposit the said amount, the learned Sessions Judge, by an order dated March 24, 2021, dismissed the appeal.

By filing this revisional application, the petitioners challenged the said order of the learned Sessions Judge dated March 24, 2021.

The said revisional application being CRR 989 of 2021, was disposed of by an order dated April 20, 2021, by passing the following order :-

“Having considered the submissions of Learned Advocate for the petitioners and bearing in mind the amended provisions of law engrafted in N.I. Act, the petitioners are directed to pay Rs. 10,00,000/- (Rupees Ten Lakhs) only, being a minimum of 20% of the fine or compensation amount, awarded by the learned Court below, before the First Lower Appellate within four weeks from hence, failing which this order shall automatically vacated without making any further reference to the petitioners.”

This present application being CRAN 1 of 2021, has been taken out by the petitioners seeking an extension of time to deposit the amount of Rs. 10 lakh (Ten Lakh) as directed by the said order dated April 20, 2021.

Mr. Lahiri, learned advocate, appearing for the opposite party no. 2, submits that this application is not maintainable in view of the clear bar under Section 362 of the Code of Criminal Procedure, 1973. He submits that it is clear from the order dated April 8, 2021, that the learned Judge of this Court directed to pay 20% of the fine amount and the fine amount was Rs. 1,40,00000/- (Rupees one crore and forty lakh).

It is either a typographical error or inadvertence, for which, Rs. Rs. 1,40,00000/- (Rupees one crore and forty lakh) was not recorded as fine amount.

I find substance in the submission advanced by Mr. Lahiri, since Section 148 of the N.I. Act, 1881 mandates a minimum deposit of 20% of the fine amount as a condition precedent for admission of appeal.

It has been, however, fairly conceded by Mr. Lahiri, learned advocate, appearing for the opposite party no. 2 that if the petitioners deposit 20% of the compensation amount being Rs. 28 Lakh within two months, his client shall have no objection.

I also appreciate the submission of Mr. Ghosh that due to the pandemic situation, there was a downfall in the business, and it was not possible for the petitioners to deposit the money within the time period, as directed by the order dated April 8, 2021.

In view of the stand taken by the respective parties, particularly keeping in mind in the pandemic situation, as a special case, I permit the petitioners to deposit Rs. 28 lakh within a period of two months from the date of this order before the learned Sessions Judge in the Court below. If such deposit is made, the appeal preferred by them

shall stand restored and sentence, as imposed by the learned Magistrate, shall remain stayed during the pendency of the appeal.

With this direction, **CRAN 1 of 2021** is disposed of.

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

(Kausik Chanda, J.)