

(Through Video Conference)

04 14.09.2021

Dd

**CRR 1647 of 2006
with
IA No. CRAN 1 of 2006 (Old CRAN 1546 of 2006)**

In the matter of : **Prakash Chandra Gupta**
Vs
The State of West Bengal & Anr.

Mr. Rana Mukherjee, Id. APP
Mr. Pravas Bhattacharya, advocates
....for the State

The criminal revision under Section 482 of Cr. P.C. filed by the petitioner seeking quashing of proceeding in case no. C-3868 of 2005 (T.R. 570 of 2005) under Section 138 of the Negotiable Instruments Act pending before Learned Metropolitan Magistrate, 11th Court, Calcutta is listed for hearing. On call, none appears for the petitioner and Opposite Party no. 2.

Mr. Rana Mukherjee, Learned Public Prosecutor and Mr. Paravas Bhattacharya, learned advocate are representing the State in this case. Appropriate authority is requested to regularize their appointments.

A brief profile of the petitioner's case is that he issued a cheque of Rs. 50,000/- in favour of OP No. 2 in connection with purchase of the some electronic items for his business. The cheque was dishonoured with the remark "payment stopped by drawer". OP no. 2 filed a case under 138 of the NI Act against the present petitioner after observing all formalities. It is gathered from the application for revision that the petitioner appeared in the case and he was examined under Section 251 of Cr.P.C. and the Learned Metropolitan Magistrate fixed a date for evidence in the case.

At this juncture, the petitioner has come before this Court contending that OP no. 2 received Rs. 50,000/- from the Bank on 14.03.2005 through Bank Draft and there is nothing left to proceed with this case. I find from averments in the application and the certified copy of the order of Learned Metropolitan Magistrate that proceeding in the case has already started and it has been fixed for evidence. If the liability of the petitioner in respect of the transaction has been discharged, the same can be brought forth through evidence. The matter relating to subsequent development cannot be looked into at this stage, at the time of considering the criminal revision.

In such circumstances, the present petitioner should be amenable to the court and face the trial. I find no reason to interfere with the proceeding pending before the Court of Learned Metropolitan Magistrate in relation to the arraignment under Section 138 of the NI Act. Hence, the criminal revision is dismissed on its merit.

Interim order of stay appears to have been valid till for four weeks since 5.7.2007.

Let a copy of this order be sent to the 11th Court of Learned Metropolitan Magistrate, Calcutta with a direction to dispose of the case which is still pending in accordance with law.

IA No. CRAN 1 of 2006 (Old CRAN 1546 of 2006) is disposed of accordingly.

(Ananda Kumar Mukherjee, J)