

16.8.2021
161
Sc

(Via Video Conference)

CRR 2100 OF 2003

In Re: - An application under Sections 397/401 read with Section 482 of the Code of Criminal Procedure, 1973.

And

In the matter of: Pahargoomiah Tea Association Ltd.
.... Petitioner

Mr. Milon Mukherjee
Mr. Sandipan Ganguly.

...for the Petitioner

This revisional application is against an order passed by the learned Judicial Magistrate on June 26, 2003 in relation to taking cognisance of proceedings under Section 138 of the Negotiable Instruments Act, 1881.

The case of the petitioner is that the entire amount, owed by the company, was paid to the partnership firm comprising of two partners, being Deokinandan Agarwal and Ashok Kumar Agarwal.

The petitioner submits that an acknowledgement for the sum of Rs.8,17,907.85 has been received by the company from one of the partners i.e., A. K. Agarwal on behalf of M/S. Deokinandan Amitkumar prior to issue of notice under Section 138 of the N. I. Act.

Apart from the above submission, Mr. Milon Mukherjee, senior advocate appearing on behalf of the petitioner submits that the complaint itself is lacking in the requisite information with regard to receipt of the legal notice under Section 138 of the N. I. Act upon the petitioner company.

It appears from the records that a coordinate Bench of this Hon'ble Court had granted stay against the proceedings in the

Court below on September 24, 2003. Furthermore, inspite of service of the order and knowledge of the revisional application, the complainant has taken no steps for having the stay vacated before this High Court.

When the matter was called on July 22, 2021, this Court had given a direction upon the petitioner to once again intimate the order passed, upon the complainant. Today the letter, that had been sent by the petitioner has been filed in Court, and the envelope indicates that the complainant is not known at the address wherein the notice had been sent. It is to be noted that this address is the same as that in the complaint itself. The letter be kept with the records.

In light of the above, I am of the view that the complainant is no longer interested in pursuing his complaint. It is to be noted that 19 years have passed since the filing of the complaint and after stay was obtained in 2003, no steps have been taken by the said complainant.

In light of the above facts and circumstances, I quash all further proceedings of Case No.C-369/2002, pending before the learned Judicial Magistrate, 1st Court, Siliguri and also set aside the order dated June 26, 2003 passed in C.R. 369 of 2002.

Accordingly, this criminal revisional application is disposed of.

Photostat certified copy of this order, if applied for, be furnished to the parties on usual undertaking.

(Shekhar B. Saraf, J.)