

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Criminal Appellate Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

CRR 3147 of 2016

With
CRAN 2 of 2021

Ujjwal Ghosh
Vs.
Hasib Choudhury

For the Petitioner : Mr. J. K. Sanwarwala

For the OP : Ms. Farah Anjum

Heard on: 13th July, 2021

Judgment on : 13th July, 2021

The Court:

This is an application challenging the judgment and order dated 17.02.2016 passed by the learned Additional Sessions Judge, 2nd Court, Suri, Birbhum in Criminal Appeal No. 28 of 2013, thereby affirming the judgment and order dated 19.06.2013 passed by the learned Chief Judicial Magistrate, Suri, Birbhum in C. Case No. 118 of 2010 under Section 138 of the Negotiable Instruments Act.

For the purported dishonour of a cheque of Rs. 98,801/-, the complainant-opposite party initiated a proceeding against the accused-petitioner under Section 138 of the Negotiable Instruments Act. By an order dated 19.06.2013, the learned Trial Court convicted the petitioner for the alleged offence and directed him to suffer simple imprisonment for six months and to pay fine of Rs. 1,25,000/- out of which Rs. 1, 15,000/- was to be given to the complainant as compensation, a sum of Rs.5,000/- was given to be given to the DLSA and the another sum of Rs.5,000/- was to be remitted to the State.

Being aggrieved by the impugned judgment and order passed by the learned trial Judge, the petitioner preferred an appeal being Criminal Appeal No. 28 of 2013. On 17.02.2016 the learned Additional Sessions Judge, 2nd Court, Suri, Birbhum was pleased to dismiss the same.

Being aggrieved, the petitioner preferred the present application before this Court. The delay in preferring the application was condoned on 23.11.2016.

Learned counsel appearing on behalf of the petitioner submits as follows. In the course of the proceeding, a compromise and settlement was arrived at between the accused petitioner and the complainant opposite party. The entire sum of Rs. 1,15,000/- was paid to the complainant

opposite party. A sum of Rs. 5,000/- was also paid to the DLSA. Since it was not clear as to which authority of the State the sum of Rs. 5,000/- was to be paid, the same could not be paid. However, the petitioner undertakes to make the said payment to the appropriate authority as per direction of this Court. In view of the settlement and compromise arrived at between the private parties, the conviction of sentence imposed upon the petitioner may be quashed and set aside.

Learned counsel appearing on behalf of the complainant opposite party submits as follows. A settlement and compromise has actually been arrived at between the private parties. The complainant has received the sum of Rs. 1,15,000/- as directed to be paid by the learned trial Court. It appears that a payment of Rs. 5,000/- has also been made by the complainant to the DLSA. In view of the same, the complainant opposite party does not have any objection if the impugned conviction and sentence are set aside.

I have heard the submissions of the learned counsels appearing on behalf of the accused petitioner and the complainant-opposite party and have perused the revision petition and the joint application for compromise.

It appears that a compromise and settlement has indeed been arrived at between the private parties and the

complainant has received the sum that was awarded by the learned trial Court. The payment to the DLSA has also been effected and the petitioner undertakes to pay a sum of Rs. 5,000/- as per direction of this Court.

In view of the compromise arrived at between the accused petitioner and the complainant opposite party, I quash and set aside the conviction of sentence imposed upon the petitioner by the learned trial Court.

However, the petitioner shall deposit a sum of Rs.5,000/- to the State Legal Services Authority within a week from this date and file a copy of the receipt for the same before the learned Registrar General, High Court at Calcutta within a week from such payment.

With these observations, the revisional application and the connected application are disposed of.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta,J.)