

23.09.2021
Ct No. 34
SL. No. 8
Rakib (PA)

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE
(Through Video Conference)**

CRR 3154 of 2012

In the matter of : Nemai Chandra Daspetitioner.

In Re: An application under Article 227 of the
Constitution of India.

The present revisional application was preferred against the judgment and order dated 20.03.2012 passed by the learned Sessions Judge, Purulia, in Criminal Revision No. 02 of 2012, wherein the order dated 26.09.2011 passed by the learned Additional Chief Judicial Magistrate, Raghunathpur, Purulia in Complaint Case No.5 of 2010 in a proceeding under Section 138 of the Negotiable Instrument Act was challenged.

The order dated 26.09.2011 passed by the learned ACJM, Raghunathpur, Purulia reflect that the accused being the present petitioner took a plea that post dated cheque cannot be a subject matter of a proceedings under Section 138 of the N.I. Act and on the said ground prayed for discharging him from bail bond and the proceedings. The

learned Magistrate on an appreciation of the settled position of law that a post dated cheque is only a bill of exchange and becomes a cheque when it is payable on demand, dismissed the contention of the accused and fixed date on 09.11.2011 for examination of he accused under Section 251 of the Code of Criminal Procedure. The present petitioner challenged the said order before the learned Sessions Court in Criminal Revision no. 02 of 2012 and the learned Sessions Judge by a judgement and order dated 20.03.2012 was pleased to dismiss the said revisional application and affirmed the order passed by the learned ACJM, Raghunathpur, Purulia.

I have perused the contention advanced by the petitioner in the application before the learned Magistrate and the revisional application, which was considered by the learned Sessions Judge and on an appreciation of the same, I am of the opinion that the order of the learned Magistrate and that of the learned Sessions Judge both adduced to the provisions of law and the principles of law settled by the Hon'ble Supreme Court.

As such no interference is called for. Accordingly, CRR 3154 of 2012 is dismissed.

Pending application, if any, consequently disposed of. Interim order, if any, is hereby vacated.

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

(Tirthankar Ghosh, J.)