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May 20,
2022
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C.R.R. No.206 of 2014

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

Chandra Prakash Tulsiyan
@ Chandra Prakash Tulshiyen
Versus
Sri Devendra Jha

Mr. Mrityunjay Chatterjee.
...for the petitioner.

Mr. Arijit Ganguly,
Mrs. Sujata Das.
...for the State.

Mr. Prashant Kumar Singh.
...for the heirs of the complainant/opposite party.

Mr. Chatterjee, learned advocate appearing for the petitioner submits an affidavit of compliance in respect of the order dated 12th May, 2022 which encloses along with others the receipt of a sum of Rs.1,50,000/- which was deposited before the learned Judicial Magistrate, 4th Court, Howrah.

Let the affidavit of compliance be kept with the record.

Learned advocate for the heirs of the complainant/opposite party is present in Court.

I have considered the subject matter of the case which relates to a proceeding under Section 138 of the Negotiable Instruments Act wherein the learned Judicial Magistrate, 4th Court, Howrah in Case No.531C of 2004 by his judgment dated 31st January, 2008 was pleased to hold the present petitioner guilty of the offence and imposed sentence of simple imprisonment for one

day and further directed to pay a compensation of Rs.1,00,000/- and in default directed for simple imprisonment for two months.

It is further reflected from the records that the subject matter of the cheque which was dishonoured is Rs.50,000/-. Being aggrieved the petitioner preferred an appeal in Criminal Appeal No.06/2008 before the learned Additional District & Sessions Judge, 2nd Court, Howrah and by a judgment dated 23rd December, 2013 the appellate court was pleased to dismiss the appeal and affirmed the order of conviction and sentenced passed by the learned Judicial Magistrate, 4th Court, Howrah.

The affidavit of compliance reflects that a sum of Rs.1,50,000/- has been deposited and there was an earlier direction that the heirs of the complainant would be liberty to withdraw a sum of Rs.1,40,000/- and the rest of Rs.10,000/- was directed to be paid to the District Legal Services Authority.

In view of the compensation being substantially paid and keeping in mind the purposes of the provision of Negotiable Instruments Act, I am of the opinion that no useful purpose would be served by sending the petitioner to jail at this stage.

Accordingly, the part of the order passed by the learned Judicial Magistrate and affirmed by the learned Sessions Judge which relates to imprisonment for one day is hereby quashed. The proceedings at present is deemed to be disposed. As such, the petitioner who was on interim bail may be discharged from the bail bonds. As directed earlier by the order dated 18th May, 2022, the heirs of the complainant would take steps before the learned

Judicial Magistrate, 4th Court, Howrah.

With the aforesaid observations, CRR 206 of 2014 is disposed of.

Pending application, if any, is consequently disposed of.

Interim order is hereby made absolute.

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

(Tirthankar Ghosh, J.)