

CRR 397 of 2010
CRAN 1 of 2010

In the matter of : Sachin Kumar Pal

Mr. N.P. Agarwala
Mr. P. Bose ... for the State

The petitioner is found absent on repeated call.

On 30.9.2022 when the matter was taken up for hearing the petitioner was found unrepresented.

Since it is an old matter of 2010 an order was passed that if on the adjourned date none is found present to support application filed under Section 482 of the Code of Criminal Procedure read with Section 401 the matter shall be disposed of on merit on the basis of the materials available with the record. Hence I proceed to dispose of the application on merit.

Briefly stated that Sri Chandan Banerjee filed an application under Section 138 of the N.I. Act against the petitioner Sachin Kumar Pal stating inter alia that the accused person issued a cheque in favour of Nibedita Electronics owned by Sri Chandan Banerjee drawn on Punjab National Bank, Chandernagore Branch for a sum of Rs. 96,450/- in discharge of his obligation to pay the same to square up the dues and to settle the account. The cheque was presented and returned by the banker for want of fund. After serving statutory notice which failed to yield any result complainant filed an application before the learned Trial Court. The learned Trial Court after considering the evidence led by the witnesses including accused / petitioner was pleased to record an order of conviction. The accused / petitioner assailed the said judgement of the learned Trial Court in appeal and

the learned 3rd Court of Additional Sessions Judge, Hooghly was pleased to dismiss the appeal and thus order of conviction and sentence passed by the learned Trial Court was upheld. Challenging the said judgement of learned Appellate Court the accused / petitioner preferred this application under consideration. It is contended by the petitioner in paragraph 4 of the petition that the cheque was reissued by him in favour of Nibedita Electronics on 30.11.2002 for a sum of Rs.96,450/- but not in discharge of his obligation to repay the dues but as an advance to procure goods from the complainant Chandan Banerjee who happens to be the owner of Nibedita Electronics. Sri Banerjee failed to supply the goods and misused the cheque to put the petitioner in trouble. It can be presumed from the concurrent findings of the learned Trial Court and the learned Appellate Court, that the petitioner failed to rebut the presumption and could not substantiate his claim that the cheque was given as an advance to procure materials and not in discharge of his obligation to repay the dues.

Under such circumstances, I do not find any reason to disturb the concurrent findings of the learned Trial Court and the Appellate Court. The petition is devoid of merit and is thus dismissed without any order as to costs.

The copy of the order be sent down to the learned Trial Court for information and necessary action.

Interim order if any, stands vacated.

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

(Siddhartha Roy Chowdhury, J.)