

CRR 591 of 2005

In the matter of : Sri Tapan Kumar Maitra

Despite receipt of notice of the proceeding, the petitioner is found absent before this Court on call.

The matter is pending since 2005, therefore, I propose to dispose of this revisional application on merit on the basis of materials available with records.

Challenge in this revisional application is to the proceeding under Section 138 of the N.I. Act pending before the 9th Court of Metropolitan Magistrate, Calcutta.

Briefly stated that the petitioner purchased a SONY WEGA colour TV from M/s. RECO with the financial assistance from M/S. BSA Finance & Industries Pvt. Ltd. But ultimately the petitioner did not discharge his obligation towards repayment of the loan that he incurred from the opposite party no. 2. The parties thereafter came to a settlement and it was decided that a sum of Rs. 5,800/- would require to be paid to square up the dues. Pursuant to such decision a sum of Rs. 2020/- was paid on 10.8.2002. Thereafter the petitioner issued two cheques of Rs.1900/- each being 832825 and 832826 drawn on H.D.F.C. Bank Ltd. As he could not arrange for sufficient fund, he requested the drawee to withhold the cheque but the cheques were submitted and dishonoured. The petitioner was served with notice claiming money equivalent to cheque amount and in response to such notice the petitioner informed the opposite party no. 2 about

his crucial financial condition but ignoring his letter the proceeding was initiated by the opposite party which was registered as C-4997/2002 on 11.12.2002 before the learned Metropolitan Magistrate, Calcutta and subsequently transferred to the Court of 9th Metropolitan Magistrate, Calcutta. The petitioner failed to defend his case before the learned Trial Judge properly and warrant of arrest was issued against him. It is further contended that subsequent to filing of the petition of complaint the sum of Rs. 2722/- was paid to the opposite party no. 2.

From the materials available with record, it appears that the petitioner admittedly committed offence within the meaning of Section 138 of the N.I. Act and exposed himself to the criminal liability.

I do not find any cogent reason to exercise inherent jurisdiction in order to quash the proceeding.

The petition under consideration is dismissed without any order as to costs.

Interim order of stay stands vacated.

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

The parties shall act upon the server copy duly downloaded from the official website of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, upon completion of requisite formalities.

(Siddhartha Roy Chowdhury, J.)