

12.05.2022

Item No.11

Suman

Ct.42

CRMSPL 15 of 2022

Ruchi Soya Industries Limited Company

Vs.

The State of West Bengal and Ors.

Mr.Sourabh Guha Thakurata

Mr. Bikash Kumar Roy

Ms. Tanuka Basu

Mr. Subhanu Nag

...for the petitioner

Mr. Anirban Mitra

Mr. Amit Halder

Md. Wasim Akram

...for the respondent No.5

Mr. Pravash Bhattacharya

Mr. Pratick Bose

...for the State

Complaint Case No.7174 of 2008 under Sections 138/141 of the Negotiable Instruments Act was disposed of by the trial Court acquitting the accused under Section 256 of the Code of Criminal Procedure. Complainant under wrong belief preferred a criminal revision before the learned Sessions Court which was registered as Criminal Revision No.18 of 2017. It is not in dispute that the complainant proceeded with the said revision diligently. However, by an order dated 17th September, 2018, the said revision was dismissed on contest and order passed by the

learned Magistrate was confirmed. Against both the orders stated above, the petitioner has preferred a special leave to appeal along with an application under Section 5 read with Section 14 of the Limitation Act. The application for condonation of delay was allowed by this Court vide order dated 21st April, 2022 holding, inter alia, that delay caused by the petitioner in preferring the special leave to appeal was mainly due to the fact that he diligently proceeded with a wrong proceeding in a wrong forum.

Learned advocate for the private opposite parties submits vigorously that the petitioner cannot challenge the finding on merit of Criminal Revision No.18 of 2017. If the petitioner is aggrieved against such order, he ought to have filed a revision before this Court. In reply thereto, it is submitted by the learned advocate for the petitioner that until and unless he is permitted to challenge the order passed by the learned Additional Sessions Judge, Bench-II, City Sessions Court, Calcutta in her judgement dated 17.09.2018, the operative part of the said judgment shall remain in force. Therefore, he has challenged not only the order of dismissal of the complaint under Section 256 of the Code of Criminal Procedure but

also the finding of the learned Revisional Court in Criminal Revision No.18 of 2017.

While disposing of the application under Section 5 read with Section 14 of the Limitation Act on 21st April, 2022 this Court held that the petitioner had chosen a wrong forum and diligently carried on a wrong proceeding believing it to be the proceeding where he can get relief. Thus, this Court has already held that the order in Criminal Revision No.18 of 2017 was passed in a proceeding which cannot be entertained according to law. In case of a wrong proceeding the order passed in a proceeding becomes automatically wrong and non est.

In view of such circumstances, I allow the application for special leave to appeal. The petitioner is directed to file Memorandum of Appeal within one month from the date of this order.

The application is, thus, disposed of.

(Bibek Chaudhuri, J.)

