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26.09.2022
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C.R.R. No.761 of 2018
With
CRAN 6 of 2022

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

Nirupam Dey
Versus
The State of West Bengal & Anr.

Mr. Saibal Mondal.
...for the petitioner.

Ms. Manisha Sharma.
...for the State.

Mr. Mondal, learned advocate appearing for the petitioner files three affidavits enclosing receipts in respect of the deposit made before the learned Magistrate on 13.06.2022, 14.07.2022 and 10.08.2022 for Rs.90,000/-, Rs.50,000/- and Rs.45,000/- respectively. Let the affidavits be kept with the record.

Records of the revisional application reflects that at the time of admission of the present revisional application, a sum of Rs.1,00,000/- was deposited on 30.08.2018 before the jurisdictional court being the Metropolitan Magistrate, 4th Court, Calcutta.

It has also been submitted that during the course of the trial before the learned Metropolitan Magistrate on different dates a sum of Rs.69,000/- was paid to the complainant.

The judgment of the Metropolitan Magistrate dated 21.06.2017 in Complaint Case No.13501 of 2010 (T.R. Case No.175 of 2010) reflects that the sentence which was imposed after

convicting the present petitioner under Section 138 of the Negotiable Instruments Act was to pay compensation for a sum of Rs.2,85,000/- along with 10% interest since the date of filing of the case within 120 days from the date of passing of the order, in default, liberty was granted to the complainant to execute the sentence as per law. The petitioner was also imposed with sentence till rising of the court and to pay fine of Rs.5,000/- in default, suffer sentence of SI for six months.

As per earlier direction of this Court, the petitioner has deposited a sum of Rs.1,85,000/- in the months of June, July and August and another sum of Rs.1,00,000/- was already deposited before the learned Metropolitan Magistrate in the month of August, 2018. From time to time a sum of Rs.69,000/- was deposited which is referred to exhibit-C of the evidence of the learned trial court.

Having regard to the fact that the petitioner has paid about Rs.3,49,000/- to the complainant, I am of the opinion that further imposing sentence or asking the petitioner to compensate the complainant is outside the scope of the provisions of the Negotiable Instruments Act.

Accordingly, further proceedings arising out of Complaint Case No.13501 of 2010 (T.R. No.175 of 2010) is hereby quashed. The complainant would be at liberty to withdraw the said amount of Rs.2,85,000/- which has been deposited pursuant to the order of this Court before the learned Metropolitan Magistrate, 4th Court, Calcutta after producing relevant documents. The petitioner, as such, is exonerated from the sentence in above referred complaint

case pursuant to the deposit being made.

Thus, CRR 761 of 2018 is disposed of.

Pending applications, if any, are consequently disposed of.

Interim order, if any, is hereby vacated.

The department is directed to send back the lower court records as early as possible preferably within seven days from the date of this order.

All parties shall act on the server copy of this order 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 compliance of all requisite formalities.

(Tirthankar Ghosh, J.)