

21.03. 2022
item No.5
n.b.
ct. no. 34

CRR 1077 of 2018

Somnath Roy
Vs.
Tapash Kanti Mondal

Mr. Sandip Chjakraborty,
Mr. Arun Kumar Upadhyay
.....for the Petitioner

Mr. Suman Sankar Chatterjee
.. .. for the opposite party.

Supplementary affidavit filed on behalf of the petitioner be
kept with the record.

Record reflects that the petitioner has deposited a sum of
Rs.2,40,000/- in two stages.

The purpose for which the Act was amended and
provisions of Negotiable Instruments Act were incorporated was
with the sole object of speedy remedy in case of cheques being
dishonored.

In this case the petitioner approached the Court for
cheque being dishonored and the criminal proceedings reached at
the stage of Section 313 of the Code of Criminal Procedure.

Having regard to the Judgments of the Hon'ble Supreme
Court in the case of *Damadar S. Prabhu Vs. Sayed Babalal H*
reported in (2010) 5 SCC 663 and the guidelines set out therein in
paragraph 21(i)(b)(c) and in the case of *Meters and Instruments*
Private Limited & Another Vs. Kanchan Mehta reported in (2018)1
SCC 560 I am of the opinion that the amount of the cheque and

the extra amount of Rs.40,000/- towards compensation are just and proper in the background of the facts and circumstances of the case and the time at which the present petitioner initially offered the amount. The learned advocate for the complainant is present but he is unwilling to accept the money which has been deposited.

Having considered the primary object of the act particularly civil wrong being converted into a criminal proceeding pursuant to the legislative intention of amendments in the original Act of 1881, the further continuance of C.R. Case No. 102 of 2008 pending before the learned Judicial Magistrate, 4th Court Burdwan is unwarranted. Accordingly, the said proceedings are quashed.

The complainant seems to be emotional in view of other additional facts including the time period, which has elapsed but the Court cannot resolve beyond the legislation and the settled principles of law. Accordingly, the complainant would be at liberty to claim whole of the amount of Rs.2,40,000/- by taking out appropriate application before the learned Judicial Magistrate, 4th Court Burdwan before whom the amount of Rs.2,40,000/- has been deposited by the accused person.

With the aforesaid observations, CRR 1077 of 2018 is allowed.

Interim order, if any, is made absolute.

All pending connected applications, if any, are consequently disposed of.

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

(Tirthankar Ghosh, J.)