

224
30.08.2022
Ct.21
AKG

CRR 1165 of 2005
With
IA No. CRAN/1/2022

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

And

In the matter of: Madan Gopal Raha

.... Petitioner

Mr. Malay Bhattacharyya

...for the Petitioner

Despite service, opposite party no.1 is not represented.

This revisional application is preferred against a judgment and order dated February 22, 2005, passed by the learned Additional Sessions Judge, 3rd Court, Bankura in Criminal Appeal No. 8 of 2004, affirming the judgment and order dated July 20, 2004, passed by the learned Sub Divisional Judicial Magistrate, Bishnupur in Case No. 39-C of 1994 convicting the petitioner under Section 138 of the Negotiable Instruments Act, 1881 and sentencing him to suffer simple imprisonment for one month and also to pay Rs. 1 lakh as compensation to the opposite party no.1.

It has to be noted that pursuant to the order dated July 5, 2022, passed by this Court, the petitioner has already deposited Rs. 1 lakh as compensation amount before the learned Magistrate in the Court below.

After hearing the learned advocate for the petitioner and going through the records of the case, I am of the view that the learned Sessions Judge in the Court below has rightly affirmed the order of the learned Magistrate.

The concurrent findings with both the Courts below with regard to the guilt of the petitioner cannot be interfered with.

However, having regard to the fact that this revisional application is pending before this Court for more than 17 years and the petitioner is now aged about 84 years, I am of the view, that the interest of justice will be sub-served if the period of simple imprisonment of one month is modified by directing the petitioner to deposit a further sum of Rs. 50,000/- before the learned Magistrate in the Court below within one month from date.

This order is passed in view of the fact that opposite party no. 1 has chosen not to contest the application at any stage before this Court.

Opposite party no. 1 will be at liberty to withdraw the said sum of Rs. 1 lakh as deposited in compliance with the order dated July 8, 2022, and also the sum of Rs. 50,000/-, which is to be deposited by the petitioner in terms of this order within one month from date.

However, the right of opposite party no. 1 for recalling or cancellation of this order is reserved.

The aforesaid directions are passed in this revisional application in view of the judgment of the Supreme Court reported at **(2018) 3 SCC 287 (P. Ramadas v. State of Kerala)**.

The order of the learned Sessions Judge is thus modified.

Accordingly, CRR 1165 of 2005 along with CRAN 1/2022 is disposed of.

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance with all the requisite formalities.

(Kausik Chanda, J.)