

23.03.2022

Item No.49

Ct.No.34

dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 1201 of 2019

**Jai Mata Di Medicine Centre & Anr.
versus
State of West Bengal & Anr.**

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

Mr. Priya Gopal Saha ... Petitioner No.2 (In Person).

Mr. Anindya Bose,
Mr. Diptendu Mandal ... For the Opposite Party No.2.

Records of this revisional application reflect that the subject matter of the case related to dishonour of cheque amounting to Rs.2,00,000/-. On conclusion of trial, the learned Magistrate was pleased to award sentence to the petitioner no.2 to suffer simple imprisonment for a period of four months and to pay compensation of Rs.3,00,000/- to the complainant, in default, to suffer further simple imprisonment for two months.

Records also reflect that the present petitioner no.2 was unsuccessful before the learned appellate court and hence, approached this Court. During such period, the petitioner no.2 was taken into custody and on 20.11.2019 when the petitioner no.2 was in custody, a sum of Rs.3,00,000/- was offered which was subsequently accepted by the complainant/opposite party no.2.

The order dated 26.11.2019 passed by learned Judicial Magistrate, 6th Court, Sealdah reflects that money receipt of

Rs.3,00,000/- was filed before the said court and the same was kept with the record.

Learned advocate appearing for the complainant/opposite party no.2 has submitted that already Rs.3,00,000/- has been accepted by the complainant/opposite party no.2.

In view of the undisputed position and the fact remains that the petitioner no.2 has already parted with a sum of Rs.3,00,000/- and has also suffered some days in custody, I am of the opinion that the judgement and order passed by the learned Magistrate on 24.06.2016 and affirmed by the learned appellate court in Criminal Appeal No. 33 of 2016 by its judgement and order dated 17.01.2019 requires interference. Accordingly, further execution of the judgement and order dated 24.06.2016 in Complaint Case No. 101 of 2011 under Section 138 of the Negotiable Instruments Act is hereby quashed.

The sentence so undergone and the compensation already adhered to and handed over to the complainant/opposite party no.2 are sufficient compliance in respect of the cheque so dishonoured. Accordingly, the sentence is reduced to what has already been undergone by the present petitioner no.2.

With the aforesaid observations, the revisional application being CRR 1201 of 2019 is partly allowed.

Interim order is hereby 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 *website* of this Court.

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

(Tirthankar Ghosh, J.)