

21.09.2022

CRR 2716 of 2022

**Soumya Das
Vs.
The State of West Bengal and Anr.**

Mr. Sabir Ahmed, Adv.

...for the petitioner

The petitioner has assailed orders dated 24th March, 2022 and 15th July, 2022 respectively passed by the learned Judicial Magistrate, 3rd Court at Serampore in CR Case No.349 of 2017.

The aforesaid case was registered in the court of the learned Magistrate upon a complaint filed against the accused/petitioner with the allegation that in discharge of existing debt or liability, the petitioner issued two account payee cheques for Rs.4 lakhs each, total being Rs.8 lakhs drawn on IDBI Bank, 90 R.B Avenue, Chandannagar in favour of the complainant/opposite party No.2. The said two cheques eventually dishonoured which prompted the complainant to issue legal notice directing the petitioner to make payment of the amount within statutory period of time. As the petitioner failed to make payment within statutory period of time, the complainant lodged a

complaint under Section 138 of the Negotiable Instruments Act against the petitioner.

On 17th June, 2019, the complainant filed an application under Section 143A of the Negotiable Instruments Act before the learned Magistrate, 3rd Court at Serampore for an order directing the petitioner to make payment of 20% of the cheque amount. The learned Magistrate passed an order on 17th June, 2019 directing the petitioner to make payment of 20% of the cheque amount in favour of the complainant as per provision contained in Section 143A of the Negotiable Instruments Act within 60 days from the date of this order. The petitioner filed an application on 14th January, 2020 praying for recalling of the said order dated 17th June, 2019. The said application was rejected vide order dated 17th January, 2020. In the same order the learned Magistrate issued distress warrant against the petitioner for realization of the 20% of the cheque amount. The said distress warrant however could not be executed. Finally on 15th July, 2022 the learned Magistrate issued warrant of arrest against the petitioner.

The petitioner has challenged the said order dated 15th July, 2022 passed by the learned Judicial Magistrate, 3rd Court at Serampore.

I have heard the learned Advocate for the petitioner. Admittedly, by an order dated 17th June, 2019 the learned Magistrate directed the petitioner to pay 20% of the cheque amount to the complainant in accordance with the provision under Section 143A of the Negotiable Instruments Act. The petitioner did not challenge the said order dated 17th June, 2019 before any higher forum. On the contrary, he filed an application for recalling of the order dated 17th June, 2019 and 14th January, 2020. The said application was rejected by the learned Magistrate on 17th January, 2020. Both the orders dated 17th June, 2019 and 17th January, 2020 have reached its finality. The petitioner has not challenged the said two orders. Distress warrant and subsequently warrant of arrest was issued against the petitioner for non-compliance of the order dated 17th June, 2019.

Since the order dated 17th June, 2019 has reached its finality, orders issuing distress warrant and warrant of arrest against the petitioner did not suffer from any illegality or material irregularity.

Accordingly, I do not find any merit in the instant revision and the revision is summarily dismissed.

(Bibek Chaudhuri, J.)