

CRR 2707 of 2007

In the matter of : Sri Dinanta Pal

Mr. Sabir Ahmed ... for the petitioner

Mr. Bidyut Kr. Roy  
Ms. Rita Datta ... for the State

Challenge in this proceeding is to the judgement and order passed by the learned Additional Sessions Judge, F.T.C. 1<sup>st</sup> Court, Suri, Birbhum in Criminal Appeal No. 1 of 2007 on 15.12.2006, affirming an order of conviction and sentence passed by the learned Chief Judicial Magistrate, Birbhum in a proceeding under Section 138 of the N.I. Act.

Briefly stated the petitioner purchased a motor-cycle from the financier the Mayurakhi Gramin Bank, Sainthia Branch on 22.3.2002 but could not discharge of his obligation to repay the loan. The petitioner issued a cheque dated 03.01.2005 of Rs. 31,078/- in favour of the complainant bank. It was presented to the banker of the petitioner and dishonored for insufficient fund. The bank / complainant issued a statutory notice upon the drawer of the cheque but it was not adhered to. Thereafter, a petition of complaint was filed under Section 138 of the N.I. Act. Learned Trial Court after considering the evidence adduced by parties was pleased to record an order of conviction and thereby directed the convict to pay fine of Rs.33,000/- in default to undergo S.I. for six months.

The petitioner made an unsuccessful attempt to challenge the judgement and order of conviction before the learned Appellate Court. As none is found to plead the case of the petitioner, I am inclined to dispose of the matter on the basis of materials on record.

Having perused the judgement passed by the learned Appellate Court, I do not find any infirmities that would warrant interference of this Court. There is no reason to disturb the concurrent finding of the learned Courts below.

The petition under consideration, is bereft of merit and is accordingly dismissed.

The copy of the order be sent down to the learned Trial Court for information and necessary action.

The parties shall act the server copy duly downloaded from the official website of this Court. The learned Trial Court is directed to issue warrant of arrest to ensure the execution of the order of conviction.

Urgent Photostat certified copy of this, if applied for, be supplied to the parties, upon completion of requisite formalities.

(Siddhartha Roy Chowdhury, J.)