

17.11.2022
Item No.07
BR

CRR 2597 of 2003

**In the matter of : M/s Anshul Properties Pvt.
Ltd.**

Challenge in this criminal revision is to the order passed by learned Sessions Judge , 9th Bench , City Civil and Sessions Court , Calcutta in criminal revision No. 225 of 2001 whereby learned Court while exercising revisional jurisdiction was pleased to discharge accused person nos. 2 to 5 from the case being C-813 of 1999 pending before the learned 13th Court of Metropolitan Magistrate, Calcutta under Section 138 of the Negotiable Instrument Act . This application under consideration was filed way back in 2003. On 6th September, 2022 when the matter was called for hearing none is found present for the petitioner. Considering the age of the case I am inclined to dispose of the matter on merit based on materials available on record.

Briefly stated M/s. Anshul Properties Private Limited received a cheque from M/s Allied Resins and Chemicals Limited for a sum of Rs. 8,41,123/- which was issued in discharge of the liability of the company arising out of bill discounting the cheque was presented but was not honoured by the banker of the drawer of the cheque for insufficient fund. The drawee of the cheque issued statutory notice calling upon the drawer to pay the amount equivalent to the cheque but it was not adhered to and M/s. Anshul Properties Pvt. Ltd. filed the

application under Section 138 of the N.I. Act before the learned Metropolitan Magistrate who in turn transferred the petition of complaint to the Court of learned 13th Metropolitan Magistrate for disposal. Learned 13th Court of Metropolitan Magistrate after examining the complainant and his witnesses under Section 200 Cr P C was pleased to issue process upon accused persons, arrayed as opposite parties in the petition under consideration. The accused persons surrendered to the jurisdiction of learned trial Court and prayed for an order of discharge. Learned trial Court rejected the said prayer. The accused persons being aggrieved by the order of the learned trial Court preferred a criminal revision being 225 of 2001 before the learned Chief Judge, City Sessions Court and it was transferred to the 9th Bench of City Sessions Court, Calcutta. Learned Judge presiding over the 9th Bench of City Sessions Court was pleased to drop the proceedings against accused nos. 2 to 5 . Challenging the said order of learned 9th Bench of City Sessions Court the complainant of the case No. C-813 of 1999 preferred this application. But upon perusal of the record I find that the very proceeding under Section 138 of the N.I. Act being C-813 of 1999 was taken up for hearing by the learned 13th Court of Metropolitan Magistrate, Calcutta on 22nd February, 2006 and learned trial Court was pleased to pass an order under Section 256 of Cr P C and thereby recorded an order of acquittal as against accused No. 1.

Under such circumstances, in my opinion, the proceeding has become devoid of merit and is dismissed, however, without costs.

Application , if any , together with interim order , if any stand disposed of and vacated.

Let a copy of the judgment be sent down to the learned Court below for information and necessary action.

Urgent certified copy be made available , if applied, therefor, upon compliance of requisite formalities.

All parties are to act on the server copy of this order duly downloaded.

(Siddhartha Roy Chowdhury, J.)