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May 20,
2022
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C.R.R. No.3070 of 2015
With
CRAN 5 of 2022

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

Surendra Kumar Jaiswal
Versus
Babita Lunia & Anr.

Mr. Avik Ghatak,
Ms. Afreen Begum.
...for the petitioner.

Mr. Debrup Bhattacharjee.
...for the opposite party no.1.

A joint compromise application being CRAN 5 of 2022 has been preferred by the petitioner being an accused as well as the complainant/opposite party no.1.

Records of the revisional application reflect that by an order dated 28.09.2015 a co-ordinate Bench of this Court was pleased to direct the present petitioner to deposit a sum of Rs.1,00,00/- with the trial court.

It has been pointed out that such amount was deposited and to that effect attention has been drawn to annexure "R/1" of the joint compromise application. In course of the pendency of the proceedings, further demand draft of Rs.1,00,000/- bearing no.501337 dated 12.05.2022 drawn on ICICI Bank was handed over to the complainant/opposite party no.1.

The subject matter of the case relates to proceedings under Section 138 of the Negotiable Instruments Act and the

amount of the cheque which was dishonoured is Rs.1,00,000/-.

Having regard to the fact that a sum of Rs.2,00,000/- as compensation has been secured pursuant to the payments made by the present petitioner, I am of the opinion that no useful purpose would be served by sending the present petitioner to jail at this stage.

Records reflect that the learned Magistrate in Complaint Case No.C/79/2007 was pleased to hold the petitioner guilty and sentenced him to suffer simple imprisonment for one month and directed compensation of Rs.2,00,000/-, in default to suffer further simple imprisonment for two months. The said judgment of the learned Magistrate was affirmed in Criminal Revision No.163 of 2014 passed by the learned Additional Sessions Judge, Second Fast Track Court, Bichar Bhawan, Calcutta.

It has been submitted by the learned advocate for the petitioner that a sum of Rs.1,00,000/- which was earlier deposited pursuant to the order passed by this Court, has already been withdrawn by the complainant and the photostat copy of original demand draft which has been enclosed along with joint compromise petition has also been handed over to the complainant.

In view of the aforesaid, I am of the opinion that the order of sentence of one month so passed by the learned Magistrate and affirmed by the revisional court should be quashed. Accordingly, the proceedings arising out of Complaint Case No.C/79/2007 would be deemed to be quashed.

Thus, the application being CRAN 5 of 2022 along with

CRR 3070 of 2015 is allowed.

Pending application, if any, is consequently disposed of.

Interim order is hereby made absolute.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)