

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 312 of 2011
With
CRAN 5 of 2023

Sankar Prasad Ghosh
Vs.

The State of West Bengal & Anr.

Mr. Anirban Mitra
Mr. Amit Roy

.... for the petitioner.

Ms. Madhumita Sadhukhan

.... for the O.P. 2

Mr. Arijit Ganguly
Ms. Debjani Sahu

.... for the State.

Judgment on : 12.07.2023

Ananya Bandyopadhyay, J. :-

Being aggrieved by the order and judgment dated 30th August, 2010 in Criminal Appeal No.29 of 2010 passed by the learned Fast Track Court, Bichar Bhawan, Calcutta, the instant revisional application had been filed by the applicant/petitioner. The learned 5th Metropolitan Magistrate Court, Calcutta in Case No. C224/1999, under Section 138 of the Negotiable Instruments Act, 1881 directed the petitioner to suffer simple imprisonment for two months and also directing to pay Rs. 1,00,000/- to the complainant as compensation within two months from the date of

passing of the judgment in default to suffer simple imprisonment for one month. The said order was affirmed by the learned Fast Track Court, Bichar Bhawan, Calcutta as aforesaid.

The petitioner and the opposite party No.2 has filed CRAN application i.e. 5 of 2023 to this effect that the matter has been amicably settled between them. On 21st December, 2022 petitioner has paid the entire amount i.e. Rs. 1, 000,00/- in cheque to the opposite party No. 2.

Accordingly, opposite party No.2 being the de-facto complainant, is not willing to continue with the pending proceedings and prayed for appropriate order to set aside the judgment and order passed by the in Criminal Appeal No.29 of 2010 passed by the learned First Track Court, Bichar Bhawan, Calcutta and the learned 5th Metropolitan Magistrate Court, Calcutta in Case No. C224/1999, under Section 138 of the Negotiable Instruments Act, 1881 in terms of the amicable settlement arrived between the parties.

According to Section 147 of the N.I. Act notwithstanding anything contained in the Cr. P.C., every offence punishable under N.I. Act shall be compoundable.

According to Section 320(6) Cr.P.C., the High Court or Court of Sessions while exercising its powers of revision under Section 401 Cr. P.C. may allow any person to compound any offence, which such person is competent to compound under the said Section. When the composition of offence under the Section is made, it shall have the effect of an acquittal of

the accused with whom the offence has been compounded under Section 320(8) of Cr.P.C.

In view of the compromise, the conviction and sentence passed by the learned 5th Metropolitan Magistrate Court, Calcutta in Case No. C224/1999, under Section 138 of the Negotiable Instruments Act, 1881 which was upheld by in Criminal Appeal No.29 of 2010 passed by the learned Fast Track Court, Bichar Bhawan, Calcutta are set aside. The petitioner i.e. Sankar Prasad Ghosh is acquitted accordingly and set at liberty.

This criminal revision application being CRR 312 of 2011 along with CRAN 5 of 2023 are disposed of as above.

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

(Ananya Bandyopadhyay, J.)