

CRR 555 of 2011

In the matter of : Jayanta Chowdhury

Mr. Binay Kr. Panda
Ms. Pushpita Saha ... for the State

Despite service of notice none is appearing on behalf of the petitioner.

This revisional application challenges judgement passed by the learned Additional District & Sessions Judge, Fast Track Court, Durgapur on 29.1.2011 in Criminal Appeal No. 24 of 2010. By the impugned judgement the learned Appellate Court affirmed the judgement and order of conviction passed by the learned Judicial Magistrate, 2nd Court, Durgapur sentencing the accused Jayanta Chowdhury to undergo rigorous imprisonment for one year and pay compensation to the tune of Rs.2 lakhs to the complainant within three months from the date of judgement. The accused person made an unsuccessful attempt to get the order of conviction reversed by preferring an Appeal No. 24 of 2010. Now by filing this application under consideration the petitioner impeaches the judgement passed by the learned Additional District & Sessions Judge, Fast Track Court, Durgapur.

Briefly stated, that Sri Lakshmi Narayan Bose, gave certain amount to Sri Jayanta Chowdhury to invest the sum in the share market. But Jayanta Chowdhury did not on it act and ultimately agreed to refund the amount to the complainant Lakshnmi Narayan Bose and for that he issued three cheques of Rs.50,000/- , Rs. 1 Lakhs and Rs. 23,490/-. The cheques were presented to

the banker and dishonoured due to insufficient fund. Notice was given to the drawer of the cheques but it was not adhered to. Hence the petition of complaint was filed. The complainant as P.W.1 adduced evidence and learned Trial Court, after considering the testimony of witnesses, both oral and documentary, was pleased to hold the accused persons guilty to the charge under Section 138 of the N.I. Act. The accused person during his examination under Section 313 of the Cr.P.C. admitted to have issued three cheques but according to the accused person he gave blank cheques to the complainant. This admission is lending support to the case of the complainant that the accused person issued cheques in discharge of his liability. When the accused took a specific plea of issuing blank cheques in favour of the complainant and when he wishes the Court to believe that the cheques were not issued in discharge of his liability or in order to repay the debt, under Section 103 of the Evidence Act, onus was upon him to prove the same which, as accused he failed to discharge.

Under such circumstances, I do not find any reason to interfere with the concurrent finding of the learned Court below.

The revisional application merits no consideration and is dismissed alongwith application, if any, without any order as to costs.

Let a copy of the order along with lower court record be sent to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)