

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CRR 1023 of 2023

**Ashok Agarwal
Vs.
The State of West Bengal & Anr.**

Mr. Jayanta Narayan Chatterjee
Mr. Somopriya Choudhury
Mr. S. Naskar
Ms. Sreeparna Ghosh
Ms. Ritushree Banerjee
Ms. Pritha Sinha
Ms. D. Das
Mr. Bhaskar Mandal
..for the petitioner

Item No. 34

Heard & Judgment on: 23.03.2023

Bibek Chaudhuri, J.

In C. Case No. 585 of 2012 the learned Judicial Magistrate, 2nd Court, Barrackpore vide order dated 20th December, 2022 convicted the present petitioner and sentenced him to suffer simple imprisonment for two years and also to pay fine of Rs.11,67,679/-

within one month from the date of this order, in default, of which he is to suffer simple imprisonment for one month.

The said order was challenged in appeal. At the time of admission of appeal on 25th January, 2023 the petitioner/accused was directed to pay a sum of Rs.2,33,536/- being 20 per cent of fine amount to be deposited by him within 60 days from the date of this order.

In the instant revision Mr. Chatterjee has raised the following grounds in support of his claim to admit the same:-

- (i) Taking me to an order dated 24th November, 2017 passed by the learned Magistrate the complainant was directed to take step for proper representation of the accused No.1, i.e., Jeshop and Company. However, no step was taken and nobody represented accused No.1 Company.
- (ii) Section 141 of the Negotiable Instruments Act states that in case of a company committing an offence, every person who, at the time the offence was committed, was in charge of and was responsible to the Company for the conduct of the business of the Company as well as the Company shall be deemed to be guilty of the offence and shall be liable to be

proceeded against and punished accordingly. The accused, it is claimed, was not in charge of the Company at the time when the offence was committed and he was not responsible to the Company for the conduct of the business of the Company.

- (iii) It is also submitted by Mr. Chatterjee that Section 148 applies in case of an appeal by the drawer of the cheque against the conviction the petitioner is not the drawer of the cheque. Therefore, the order passed by the learned Appellate Court is bad in law.

In my considered view all the points canvassed by Mr. Chatterjee are questions of fact which cannot be decided in revision. Since the appeal is pending, the petitioner is at liberty to agitate all the points in the appeal. When this Court has permitted the petitioner to raise all the points in the pending appeal and it is claimed that the petitioner is not the drawer of the cheque, he does not require to deposit 20 per cent of the fine amount equivalent to Rs.2,33,536/- as per direction of the Appellate Court till the disposal of the appeal.

The instant revision is, accordingly, disposed of.

(Bibek Chaudhuri, J.)

