

04.01.2023
S/L No.38
KS

C.R.R.1189 of 2021
Sri Shyamal Mahapatra
-Vs.-
The State of West Bengal & Anr.

Mr. Suman De
.....For the Petitioner
Mr. S. S. Imam
Mr. S. Kundu
.....For the State

The present revisional application has been preferred challenging the judgment and order dated 08.09.2020 passed by the Learned Additional Sessions Judge, Fast Track Court, Haldia, Purba Medinipur wherein the learned Court was pleased to dismiss the criminal appeal no.04/17. The said appeal was preferred against a judgment and order of acquittal dated 10.11.2016 passed by the Learned Judicial Magistrate, 1st Court, Haldia, Purba Medinipur in C.R. Case No.52 of 2007 in respect of alleged offences under Sections 420/ 468 of the Indian Penal Code.

Mr. De, learned advocate appearing for the petitioner submits that the petitioner has suffered because of the act and conduct of the opposite party who in spite of receipt of the money which were due implicated him in a false case under Section 138 of the Negotiable Instruments Act by illegally withholding the cheque. Learned advocate submits that both the Learned Magistrate and the Learned Appeal Court failed to appreciate the evidence in its true and proper perspective and erroneously acquitted the opposite party.

Learned advocate appearing for the opposite party submits that the Learned Sessions Court had no authority to admit the appeal in view of the

provisions of Section 378 of the Code of Criminal Procedure. Learned advocate further submits that both the Courts below have appreciated the evidence and arrived at their factual finding.

Mr. Kundu, learned advocate appearing for the State submits that the dispute is private and personal in nature and the Learned Court below on an appreciation has arrived at their conclusion.

I have considered the submissions advanced by the respective advocates and I find that the Learned Trial Court as well as the Learned Appellate Court on an appreciation of facts arrived at their finding. It is a settled proposition of law that an accused is presumed to be innocent and the same is fortified by an order of acquittal, until and unless there are materials to show that manifest error is appearing in the judgment delivered by both the Court below and there is gross mis-appreciation of evidence by the Court below, it would not be proper for a higher court to substitute its own views and replace the same with the view which has been expressed consistently by both the Courts below.

Having considered the factum of acquittal being confirmed and there is no manifest error appearing in the records of the case or any gross illegality which touches the root of the case, I am of the opinion that no case has been made out in the revisional application calling for interference of this Court.

Accordingly, C.R.R.1189 of 2021 is dismissed.

Pending applications, if any, are consequently disposed of.

Interim order, if any, is hereby vacated.

All parties are directed to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Tirthankar Ghosh, J.)

