

CRR 2844 of 2011

In Re : Biswanath Singhania

Mr. B. K. Ray
Ms. Sima Biswas ... for the State

Despite service of notice, no one is appearing on behalf of the petitioner.

This revisional application is pending since 2011. Therefore, instead of adjourning the matter suo moto, I am inclined to dispose of the matter on merit based on materials available with the record.

Briefly stated, Sri Kumud Ranjan Sinha, the opposite party herein filed a petition of complaint under Section 138 of N.I. Act against Biswanath Singhania, the petitioner, as the cheque issued by the accused person drawn on Indian Bank, Overseas Branch, Calcutta-13 vide cheque no. 257517 dated 24.8.2000 for a sum of Rs. 20350/-, was not honoured by the banker of the accused person as the fund was insufficient. Statutory notice under Section 138(b) of the N.I. Act was given but the accused person refused to comply with the request of the notice. The accused person, however, surrendered to the jurisdiction of the learned Trial Court and adduced evidence as D.W.1. Subsequently, on 29.7.2010 accused person moved the learned Trial Court for fresh examination. It appears from the order passed by the learned Trial Court that the accused person submitted his evidence-in-chief supported by affidavit as D.W.1 and he was cross-examined thoroughly. Learned Trial Court, therefore, was pleased to reject

the prayer of the accused person. The said order was challenged in Criminal Revision No. 231 / 2010 before the learned Additional Sessions Judge, 9th Court, F.T.C., Bichar Bhawan, Kolkata, learned Appellate Court was pleased to affirm the order passed by learned Trial Court on 29.7.2010. Challenging the said order, this revisional application was filed. Since the accused person adduced evidence as D.W. 1, there is no room to adduce evidence afresh. A witness may be examined on recall but there is no provision prescribed under law for de novo examination of the same witness, therefore, I do not find any reason to interfere with the order impugned, the criminal revision does not merit any consideration and is dismissed without any order as to cost.

Let a copy of the order be sent to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)