

07.06.2023
Ct No.33
PA

CRA 533 of 2009
Ranbaxy Laboratories Limited
Vs.
State of West Bengal & Anr.

None appeared for the appellant on repeated date and the appeal was fixed for 'Order' on 07.06.2023.

A Special Leave to appeal was allowed to challenge the judgment and order of acquittal passed under Section 138 of the Negotiable Instruments Act on 28.7.2009 by this Hon'ble Court in CRM No. 8822 of 2009.

The instant appeal was directed against order dated 28.05.2009 passed by the Learned 9th Judicial Magistrate at Alipore in Case No. C.238 of 1998 under Section 138 of the Negotiable Instruments Act acquitting the Opposite Party No. 2 from the charge punishable under Section 138 of the Negotiable Instruments Act.

The appellant was discontented with the impugned order as the Learned Trial Court disregarded the non-appearance of the Learned Advocate of the complainant/appellant on 28.04.2009 and 28.05.2009. The appellant was unaware of the status of the case and remained unrepresented whereby the Learned Trial Court acquitted the Opposite Party No. 2 and dismissed the case for non-prosecution. The involvement of the Opposite Party No. 2 in the alleged offence considering a sum of Rs.11,09,749.61/- was of high stake. The appellant should not have been prejudiced due to the lapse on the part of the

Learned Advocate and prayed the impugned order dated 28.05.2009 be set aside.

The impugned order dated 28.05.2009 stated as follows:

“Complainant is absent without step. Accd. is present on call.

On repeated call none represented the complainant complainant nor filed show cause.

Considering the absence of the complainant on consecutive dates the instant case is dismissed for non-prosecution.

The accd. person acquitted of offence punishable u/s. 138 N.I.Act under the provision of section 256 Cr.P.C.

The accd. person is discharged from its bail bond too.”

After the instant appeal got admitted, the appellant did not take any steps to mention the urgency of hearing of the same. Administrative notice was issued upon the appellant by order dated 03.03.2023.

The Hare Street Police Station submitted a report to the Registrar Administration (L & OM), High Court, A.S., which stated as follows:

“Ref: CRA 533 of 2009

Sir,

With due respect and humble submission, I would like to submit that in compliance with the attached notice captioned as “ADMINISTRATIVE NOTICE” an attempt was made to serve the notice upon M/S Ranbaxy Laboratories Ltd. of 24, R.N. Mukherjee Road, Kol-700001, being represented through its Authorized Representatives and

Constituent Attorney, Mr. Sanjay Kumar, accordingly, ASI-S.B. Mahato and force of this PS had been to the given address for effecting service of the said notice upon the said company but it could be learnt that office of the said company already winded up its business about 10/12 years back. Accordingly, examined the Manager [1] Mr. Robin Dutta (30 Yrs.), S/o- A. Dutta of 24, R.N. Mukherjee Road, Kol-700001 and [2] Watchman, Mr. Binod Yadav (40 Yrs.), S/o- Jayram Yadav of 24, R.N. Mukherjee Road, Kol-700001 who stated that at present there is no existence of the office of the said company at the given address. Because the company in question already winded up their business about 10/12 years back and moved to an unknown destination forever.

On being asked, nobody could throw any light about the present whereabouts of the said company. As such, notice in question could not be served. And accordingly un-served notice is being returned herewith a prayer to issue next process against the said company in question.

This is for favour of your kind perusal and necessary order as Your Honour deems fit and proper.”

The Learned Trial Court did not get the opportunity to decide the merits of the case considering the non-appearance of the complainant/appellant before it. The appellant did not take necessary steps to contest the appeal filed on its behalf.

In view of the report submitted by the concerned Police Station and the conduct of the appellant/company, the Learned Trial Court's order dated 28.05.2009 is affirmed and the instant appeal is dismissed.

Accordingly, CRA 533 of 2009 stands disposed of.

Urgent certified copy of this order, if applied for, be made available to the parties upon compliance with requisite formalities.

(Ananya Bandyopadhyay, J.)