

22-06-2023
Subha
Item no. 27
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 2996 of 2022

Tapan Kumar Ghosh
-versus-
S. S. Enterprise & Anr.

Mr. Chandrachur Chatterjee
....for the petitioner.

Liberty is granted liberty to amend the cause title.

Petitioner has challenged the proceedings being case no. AC 698 of 2022 pending before the learned Judicial Magistrate, 5th Court, Alipore under Section 138 of the N. I. Act.

Learned advocate for the petitioner submits that the stop payment instructions were issued to the bank authorities. The same was known to the complainant who fixed a meeting/discussion and subsequently instituted the proceedings.

Learned advocate submits that there was sufficient amount in the bank account to honour the cheque but the issue related to the discharge of legally enforceable debt or liability for the purpose of which the present petitioner stopped payment. The question of funds available in the account relate to the evidence of the bank witness concerned. The same cannot be decided summarily in a proceeding under Section 482 of the Code of Criminal Procedure.

Petitioner as such would be at liberty to canvass the points advanced in the present revisional application along with all evidence at the appropriate stage of the trial before the learned

Judicial Magistrate, 5th Court, Alipore. No interference is made at this stage. However, the learned trial court would consider the issues advanced by the petitioner independently without being influenced by any observations made by this court.

With the aforesaid observations, the present revisional application being CRR 2996 of 2022 is disposed of.

Pending applications, if any, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]