

Sl No.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 2487 of 2013

With

CRAN 1 of 2023

Partha Sarathi Sen

Vs.

The State of West Bengal & Anr.

Mr. Soumik Ganguli
Mr. Ranadeb Sengupta

.... for the petitioner.

Mr. Saryati Datta

.... for the O.P. 2

Mr. Narayan Prasad Agarwala

.... for the State.

Judgment on : 18.01.2023

Ananya Bandyopadhyay, J. :-

Being aggrieved by the order and judgment dated 18th June, 2013 in Criminal Appeal No.40 of 2011 passed by learned Sessions Judge, Bankura, the instant revisional application had been filed by the applicant/petitioner. The learned Judicial Magistrate 1st Class, 6th Court, Bankura in Case No. 420C/2009, T.R. No. 613 T/2009 under Section 138 of the Negotiable Instruments Act, 1881 directed the petitioner to pay Rs. 1,10,500/- to the complainant as compensation within sixty days from the date of passing of the judgment in default to suffer simple imprisonment for six months and to pay a fine of Rs. 4,000/ in default to suffer simple

imprisonment for 3 months, in case of failure to pay the fine and compensation money. The sentences will run consecutively. The said order was upheld by the learned Sessions Judge, Bankura as aforesaid.

From the record it transpires that in compliance with the order dated 15th July, 2013, the petitioner has deposited Rs. 35,000/- through a bank draft dated 18.07.2013 drawn on Bank of India, Bankura Branch on 20.07.2013 before the learned trial court.

The petitioner and the opposite party No.2 has filed CRAN application i.e. 1 of 2023 to this effect that the matter has been amicably settled between them. On 17th December, 2022 petitioner has paid the remaining amount i.e. Rs. 75, 000/- in cash to the opposite party No. 2. Accordingly, opposite party No.2 being the de-facto complainant, is not willing to continue with the pending proceedings and prayed for appropriate order to set aside the judgment and order passed by the learned Sessions Judge, Bankura in Criminal Appeal No.40 of 2011 and the learned Judicial Magistrate, 1st Class, 6th Court at Bakura in Case No. 420C/2009, T.R. No. 613T/2009 under Section 138 of the Negotiable Instruments Act in terms of the amicable settlement arrived between the parties.

According to Section 147 of the N.I. Act notwithstanding anything contained in the Cr. P.C., every offence punishable under N.I. Act shall be compoundable.

According to Section 320(6) Cr.P.C., the High Court or Court of Sessions while exercising its powers of revision under Section 401 Cr. P.C.

may allow any person to compound any offence, which such person is competent to compound under this Section. When the composition of offence under the Section is made, it shall have the effect of an acquittal of the accused with whom the offence has been compounded under Section 320(8) of Cr.P.C.

In view of the compromise, the conviction and sentence passed by the learned Judicial Magistrate, 1st Class, 6th Court, Bankura in Case No. 420C/2009, T.R. No. 613 T/2009 under Section 138 of the Negotiable Instruments Act which was upheld by the Ld. Sessions Judge, Bankura in Criminal Appeal No. 40 of 2011 are set aside. The petitioner i.e. Partha Sarathi Sen is acquitted accordingly and set at liberty.

This criminal revision application being CRR 2487 of 2013 along with CRAN 1 of 2023 are disposed of as above.

All parties shall act on the server copy of this judgment duly downloaded from the official website of this court.

(Ananya Bandyopadhyay, J.)