

The office report indicates that notice could not be served upon the parties as both of them left their respective addresses.

This revisional application is pending since 2012 which challenges the judgment and order dated 6th September, 2012 passed by the learned Additional Sessions Judge, Fast Track, 1st Court, Alipore, 24-Parganas, South in Criminal Appeal No.90 of 2011 affirming thereby the judgment and order dated 29th April, 2011 passed by the learned Additional Chief Judicial Magistrate, Baruipur in a proceeding under Section 138 of the NI Act.

Briefly stated, Asit Gayen filed a petition of complaint before the learned jurisdictional Magistrate under Section 138 of the NI Act stating, inter alia, that on 8th August, 2004, he gave a sum of Rs.30,000/- to Subhas Bhattacharya who promised to pay back by 8th February, 2005. The accused person issued a cheque vide no.103609 for a sum of Rs.30,000/- drawn on United Bank of India, Sonarpur Branch. The cheque was duly presented and dishonoured on the ground that fund was insufficient. Statutory notice under Section 138(b) of NI Act was given to the accused person who refused to comply with the said notice.

Learned jurisdictional Magistrate after invoking the provision of Section 200 Cr.PC was pleased to issue process against the accused person who surrendered to the jurisdiction of the Trial Court and stood the trial pleading his innocence.

Learned Trial Court after considering the evidence of witnesses on record was pleased to hold the accused person guilty of committing offence

within the meaning of Section 138 of the Code of Criminal Procedure and sentenced the accused person to suffer simple imprisonment for six months and to pay a sum of Rs.40,000/- towards compensation.

The accused person made an unsuccessful attempt to reverse the order of conviction in Court of appeal No.90 of 2011. I have perused the judgment impugned, I do not find any reason to unsettle concurrent finding of learned Trial Court and learned Appellate Court. In my view, the impugned judgment does not warrant any interference. Consequently, the revisional application is dismissed.

A copy of the judgment be sent down to the learned Trial Court for information and necessary action.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Siddhartha Roy Chowdhury, J.)