

16-08-2023
Court No.3
mg/14.

**In The High Court At Calcutta
Jalpaiguri Circuit Bench**

**C.R.R. 18 of 2022
With
IA No. CRAN 1 of 2022, CRAN 2 of 2023**

**SUBHAJIT CHAKRABORTY
Vs.
UDAY SANKAR PAUL CHOWDHURY**

Mr. Arnab Saha
Mr. Sudhindra Das
... for the petitioner.

Mr. Sourav Ganguly
Mr. Gopal Roy
...for the respondent

The instant application is filed against the Judgment and Order dated 23.12.2021 passed by the Additional Sessions Judge, Fast Track Court No.II at Alipurduar.

A complaint case was drawn up under Section 138 of the Negotiable Instrument Act, 1881 which was registered as CR Case No. 80 of 2008 corresponding to TR case no. 494 of 2008. In terms of the Judgment and Order dated 30.7.2013 the trial Court namely Judicial Magistrate, Second Court, Alipurduar acquitted the present petitioner.

An appeal was preferred in the Court of Additional District and Sessions Judge, Alipurduar. After admission the matter was transferred to the Additional Sessions Judge, Fast Track Court No.II at Alipurduar. The appeal was registered as 9 of 2014. The first Appellate Court reversed the Order of acquittal and convicted the present petitioner in terms of the impugned Order dated 23.12.2021.

On being aggrieved and dissatisfied the instant revisional application is preferred.

Express provision of Section 378(4) was not only given a go bye but also was infringed and offended by the first Appellate Court in hearing and disposing of the appeal. The Order passed by the first Appellate Court is clearly without jurisdiction and authority and is non-est in the eye of law.

Accordingly, the Order dated 23.12.2021 passed by the learned District and Sessions Judge, Fast Track Court No.II in criminal appeal no. 18 of 2022 is set aside.

However, liberty is given, as prayed for by the learned Counsel for the respondent to

prefer appeal in appropriate forum subject to
law of limitation and other applicable status.

(SUGATO MAJUMDAR, J.)