

D/L.12
28.06.2024
Rakib
(PA)

C.R.R.170 of 2022
With
CRAN 4 of 2022
With
CRAN 9 of 2023

Tantia Construction Ltd.
Versus
Titec Finance Ltd.

Mr. Swatarup Banerjee
Mr. Avishek Guha
Mr. Sariful Haque
Ms. Sonal Agarwal.

...for the petitioner.

Mr. Pawan Kumar Gupta
Mr. Sakabda Roy
Ms. Sofia Nesar
Mr. Santanu Sett.

...for the opposite party.

A Photostat copy of the certified copies of the proceedings being Complaint Case No. C.S. 43633 of 2017 pending before the learned Metropolitan Magistrate, 14th Court, Calcutta so submitted by the petitioner be kept with the record.

The present revisional application has been preferred for quashing of the proceedings being Complaint Case No.C.S.43633 of 2017 which was instituted for alleged commission of offences under Sections 138/141 of the Negotiable Instruments Act and is pending before the learned Metropolitan Magistrate, 14^h Court, Calcutta.

The present petitioner being the company approached the High Court in view of the orders passed by the National Company Law Tribunal, Kolkata Bench on 13.03.2019 and 24.02.2020. The proposition of law in respect of a company, which

has been implicated as an accused in respect of alleged commission of offences punishable under Section 138 of the Negotiable Instruments Act and orders passed by National Company Law Tribunal has been settled by the Hon'ble Supreme Court in P. Mohanraj & Ors. Vs. Shah Brothers Ispat Private Limited reported in (2021) 6 SCC 258 and Ajay Kumar Radheshyam Goenka Vs. Tourism Finance Corporation of India Limited reported in 2023 SCC OnLine SC 266.

The present case was instituted in the year 2017 and the photostat certified copies which have been placed at this stage reflect that the case for dishonour of cheque (s) has reached to the stage of Section 313 Cr.P.C. before the learned Metropolitan Magistrate, 14th Court, Calcutta.

In view of the stage of the case and the orders passed by the National Company Law Tribunal, Kolkata Bench as also the settled proposition of law, I direct the representative of the company to appear and present the relevant certified copies of the orders before the learned Magistrate. Learned Magistrate will act in accordance with the settled proposition of law as referred to in the judgments of the Hon'ble Supreme Court and to decide the same first before progressing further.

Petitioner is granted liberty to inform the learned Metropolitan Magistrate, 14th Court, Calcutta within a period of seven days from date.

Learned Magistrate after service of copy to the opposite party will dispose of the application recording his subjective

satisfaction, if any, within a period of 15 days from the said order.

With the aforesaid observations, CRR 170 of 2022 is disposed of.

Connected applications, if any, are consequently disposed of.

The interim order earlier so passed is vacated.

However, the learned Magistrate will stick to the timeline referred to above.

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

Urgent Photostat certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)