

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE

CRMSPL 13 of 2024

Md. Abujar Gubbar @ Md. Abujar Guffar
@ Md. Abuzar Guffar
-versus-
The State of West Bengal & Anr.

Mr. Navanil De
Ms. Monami Mukherjee
... For the petitioner/appellant

1. Learned advocate appearing on behalf of the petitioner/appellant has submitted that this special leave petition under Section 378(4) of the Code of Criminal Procedure has been filed with a prayer for granting leave to file appeal against the judgment and order passed by the learned Judicial Magistrate, 3rd Court, Paschim Medinipur, in connection with C.R. Case No.152 of 2021 wherein judgment was delivered on 27th December, 2023 acquitting the accused of the charge under Section 138 of the Negotiable Instruments Act (in short, 'NI Act').
2. Ms. Monami Mukherjee, learned advocate on behalf of the petitioner/appellant has submitted that the learned Judge failed to appreciate the correct position of law in respect of notice as well as the true meaning of "legally enforceable debt" according to the Explanation to Section 138 of the NI Act and thereby it is submitted that there is arguable case to be adjudicated in the appeal if leave is granted.
3. After having gone through the impugned judgment and order, leave is granted.

4. The petitioner/appellant is at liberty to prefer an appeal within the statutory period.

5. With the aforesaid observation, CRMSPL 13 of 2024 stands disposed of.

6. Criminal Section is directed to supply certified copy of this order, if applied for, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)