

23.12.2024
Serial no.1
Piya
Ct. No. 30

CRR 2338 of 2022

+

CRAN 2 of 2024

Debasish @ Debasis Marik

vs.

The State of West Bengal & Anr.

Mr. Subir Banerjee

Mr. Anupam Ghosh

... for the Petitioner

Mr. Amit Ranjan Pati,

Ms. Swastika Chowdhury

... for the O.P. no. 2

1. The present revision has been preferred praying for setting aside of the judgment and order dated 16th June, 2022 passed by the learned Additional Sessions Judge, Special Court (E.C. Act), Paschim Medinipur in Criminal Appeal No. 21 of 2010.
2. **CRAN 2 of 2024** filed, is an application on affidavit stating that the parties have arrived at an amicable settlement in the present case and the complainant/opposite party (bed ridden) has stated through his learned advocate on record that he does not have any grievance if the proceedings in the present case is quashed in respect of the petitioner.
3. The Supreme Court in ***B.V. Sessaiah vs. The State of Telangana & Anr. and B. Vamsi Krishna vs. The State of Telangana & Anr., (2023 Live Law(SC) 75) on 1st February, 2023*** held:-

“8. In our view, the terms and conditions of the settlement entered into by the parties binds them to settle the dispute amicably, or through an arbitration as has been stated in clause 8 of the Memorandum of Understanding.

9. In such a circumstance, the Appellants cannot be convicted on the basis of the orders passed by the courts below, as the settlement is nothing but a compounding of the offence.

*10. In the case of **M/s. Meters and Instruments Private Limited & Anr. Vs. Kanchan Mehta**, this court held that the nature of offence under section 138 of the N.I. Act is primarily related to a civil wrong and has been specifically made a compoundable offence. The relevant paragraph of the judgement has been extracted herein:*

“This Court has noted that the object of the statute was to facilitate smooth functioning of business transactions. The provision is necessary as in many transactions' cheques were issued merely as a device to defraud the creditors. Dishonour of cheque causes incalculable loss, injury and inconvenience to the Vide the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988 payee and credibility of business transactions suffers a setback. At the same time, it was also noted that nature of offence under Section 138 primarily related to a civil wrong and the 2002 amendment specifically made it compoundable.”

11. This is a very clear case of the parties entering into an agreement and compounding the offence to save themselves from the process of litigation. When such a step has been taken by the parties, and the law very clearly allows to do the same, the High Court then cannot override such compounding and impose its will.”

- 4. The joint application filed by the parties** clearly shows that an amicable settlement and compromise has been arrived at between the parties and the complainant does not wish to proceed with the criminal case against the petitioner, being in Criminal Appeal No. 21 of 2010, order dated 16th

June, 2022 passed by the learned Additional Sessions Judge, Special Court (E.C. Act), Paschim Medinipur.

5. **From the materials on record**, it appears that the dispute in the present case is regarding a cheque being dishonoured and the parties have now resolved their entire dispute by way of a compromise/settlement on affidavit and as such the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice could be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the complainant. As in the words of the Supreme Court in ***(Gian Singh Vs. State of Punjab and another, (Supra))***.
6. Considering the said position of law as laid down by the Supreme Court, the present revisional application along with CRAN 2 of 2024, which be made part of the record, **stands allowed**.
7. **Accordingly, the revisional application being CRR 2338 of 2022 is allowed on compromise.**
8. The judgment and order dated 16.06.2022 passed by the learned Additional Sessions Judge, Special Court (E.C. Act), Paschim Medinipur in Criminal Appeal No. 21 of 2010 **is hereby set aside**.

- 9.** The petitioner/accused is accordingly discharged from the case and be set at liberty at once.
- 10.** All connected Applications, if any, stands disposed of.
- 11.** Interim order, if any, stands vacated.
- 12.** Copy of this order be sent to the learned Trial Court for necessary compliance.
- 13.** Urgent certified website copy of this order, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)