

15.05.2024
Ct. No. 30
Item No. 46
Cp

C.R.R. No.2480 of 2019
With
IA NO: CRAN/1/2020(Old No: CRAN/1301/2020)

Sanwal Tirbrawal
Vs.
M/s. Fast Flow Vintrade Pvt. Ltd.

There is no representation on behalf of the petitioner since the date of listing.

The present criminal revisional application has been preferred praying for quashing of the proceeding of Case No. CS/0035715/2015 pending before the Court of the learned Metropolitan Magistrate, 18th Court at Calcutta under Section 138 of the Negotiable Instruments Act, 1881 including the orders dated September 15, 2015, June 24, 2016 and August 18, 2016 and all subsequent orders passed in connection therewith (T.R. No. 7769 of 2015).

It is the case of the petitioner that the company in the present case has not been made a party and only the petitioner has been impleaded as the accused. As such, in view of Section 141 of the Negotiable Instruments Act, the present case is not maintainable.

From the materials on record and a copy of the cheque, in the present case, annexed at page 25 of the revisional application, it appears that the cheque was issued on behalf of the company. The petition of complaint at page 27 shows that the company has not been made an accused in the present case. Accordingly, in view of the

judgment of the Supreme Court in Himanshu vs. B. Shivamurthy & anr. dated 17th January, 2019, in Criminal Appeal No. 1465 of 2009, the proceedings before the Trial Court is, prima facie, not maintainable.

As the petitioner is not present, the revisional application is disposed of with liberty granted to the petitioner to raise the issues in the present revision before the learned Trial Court and the learned Trial Court shall consider the same in accordance with law, without being influenced by the observations of this Court.

The revisional application is accordingly disposed of. All connected applications, if any, stand disposed of. Interim orders, if any, stand vacated.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Shampa Dutt (Paul), J.)