

23.09.2024.
01.
Ct. No.237
Bd.

CRR 3338 of 2022
with
IA No. CRAN 1 of 2024
CRAN 2 of 2024

Sk. Khusnabi
-vs-
Hrishikesh Maity

Mr. Swapan Kumar Mallickfor the petitioner.

Ms. Reshmi Khatun ... for the opposite party/complainant.

Mr. Asif Dewan ... for the State

Re: CRAN 2 of 2024

In the present application the accused petitioner being aggrieved by the judgment passed by the Court below in Criminal Appeal No. 03 of 2018 has preferred the present application. The opposite party/complainant filed a complaint against the petitioner herein under section 138 of the Negotiable Instrument Act, (in short N.I.Act,). Learned Trial Court by his judgment dated 20th December, 2017 convicted the petitioner and sentenced him to suffer simple imprisonment of fifteen days and also to pay a fine of Rs. 7 lakhs (seven lakhs) within one month from the date of the order, in default to suffer simple imprisonment for one year.

Being aggrieved by the trial court's judgment petitioner/convict preferred the appeal before the Court below and learned court below by the impugned judgment

dated 21st July, 2022 dismissed the Criminal Appeal subject to modification of the sentencing part and thereby the compensation amount was reduced to Rs. 5 lakh (Five Lakh), in default to suffer simple imprisonment for one year.

Now the opposite party/ complainant Hrishikesh Maity by filing the present application being CRAN 2 of 2024 submits that the disputes between the parties have been amicably resolved by the intervention of well wishers and a demand draft of Rs. 50,000/-(fifty thousand) has been prepared in favour of the complainant and as such he prays for compounding the offence.

The non-obstante clause in section 147 of N.I. Act, makes it clear that N.I. Act being a special statute, the provision of section 147 will have an overriding effect over the provisions of Criminal Procedure Code.

As the offence under section 138 of the Act is compoundable and the section does not speak about taking leave of the Court for making such composition, it would be just and expedient to permit the parties to compound the offence. The complainant agreed to receive a sum of Rs. 50,000/- in full and final settlement of the entire claim and why the parties entered into a settlement cannot be the matter for consideration of the Court, when terms of compromise does not violate any public policy and not otherwise inequitable.

Having considered the facts and circumstances of the case and upon hearing learned counsel appearing on behalf of the complainant as well as accused person, the offence under Section 138 of the N.I. Act, is hereby compounded and the petitioner is acquitted from the offence punishable under section 138 of N.I. Act. Petitioner is released from his bail bond.

CRR 3338 of 2022 along with connected applications being CRAN 01 of 2024 and CRAN 02 of 2024 are accordingly disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of usual formalities.

(Ajoy Kumar Mukherjee, J.)