

12.03.2025

SL. 73
Court No. 551
Sourav

C.R.A. 66 of 2013

In the matter of: **Grasim Industries Limited**

... appellant.

Mr. Pijush Kanti Ray
Mr. Sourajit Mukherjee

... for the appellant.

Mrs. Manisha Sharma
Mrs. Rita Dutta

... for the State.

Ms. Monami Mukherjee

... for the respondent no. 1.

1. The affidavit-of-service as filed in Court today is taken on record.
2. Challenge in this special leave to appeal is the order no. 22 dated 13.07.2012 as passed by the learned Additional Sessions Judge, Fast Track Court No. VI, Calcutta in Criminal Revision No. 2 of 2011 whereby and whereunder the said revisional court while disposing the said revisional application acquitted the respondent no. 1 herein.
3. In course of hearing, Mr. Ray, learned advocate appearing on behalf of the appellant/complainant at the very outset draws attention of this Court to page nos. 12 to 15 of the paper book wherefrom it reveals that in a proceeding under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the 'said Act'), the respondent no. 1 herein was convicted in connection with C. Case No. 13388 of 2004 (T.R. No. 1194 of 2008) and is thus sentenced to suffer S.I. for two months and to pay sum of

Rs. 2 lakhs as compensation to the appellant/complainant herein within three months from the date of passing of the said judgment I/d to suffer S.I. for one month more.

4. It is submitted by Mr. Ray that challenging the said judgment of conviction and order of sentence, the respondent no. 1 herein preferred Criminal Revisional application No. 2 of 2011 before the learned Chief Judge, City Sessions Court, Calcutta which was subsequently transferred to the Court of Additional Sessions Judge, Fast Track Court – VI, Calcutta for disposal. At this juncture, Mr. Ray draws attention of this Court to the two petitions dated 13.07.2012 namely, one purported joint petition of both the parties of the said criminal revisional application and another filed by the revisionist in the said revisional application as available in the Trial Court Record.
5. It is submitted by Mr. Ray that on a bare perusal of the said joint petition as purportedly filed by the parties to the said revisional application, it would reveal that the said joint petition does not bear the signatures of the parties to the said revisional application and the said joint petition was neither verified nor supported by affidavit and on the contrary, the said petition was filed with the purported signature of the learned advocate for the opposite party no. 1 of the said revisional application.
6. It is submitted by Mr. Ray that at no point of time, the present appellant/complainant instructed their learned advocates to file any such compromise petition and the said

purported joint compromise petition was filed without instruction of the present appellant/complainant which is why the said purported joint compromise petition does not bear the signature of the authorized representatives of the present appellant. Mr. Ray further submits that while passing the impugned order, learned revisional court has failed to visualize that the said purported joint compromise petition does not bear the signature of either parties.

7. It is further submitted that even in the impugned order, there is no finding of the learned Trial Court that on the day of filing of the said purported joint compromise petition, the parties to the revisional application were present before the revisional court and they were duly identified by their learned advocates-on-record.
8. In course of her submission, Ms. Mukherjee, learned advocate appearing on behalf of the respondent no. 1 also draws attention of this Court to the impugned order. It is submitted by her that from the said impugned order, it would reveal that the said learned revisional court recorded that 'haziras' of both the parties through their learned advocates were filed and there is no finding as to whether the revisionist and the opposite party to the said revisional application are at all present or not. It is submitted by her that before passing the impugned order, learned revisional court ought to have ensured the presence and identification of the parties of the said revisional application especially when, a purported joint compromise petition has been filed

on the said day. It is also submitted by her that a serious miscarriage of justice occurred while passing the impugned order.

9. Ms. Sharma, learned advocate appearing on behalf of the respondent/State echoes the version of Ms. Mukherjee, learned advocate appearing on behalf of the opposite party no. 1.
10. On careful consideration of the entire materials as placed before this Court and after hearing the submissions of the learned advocates for the contending parties, it appears to this Court that admittedly on 13.07.2012, the parties to the said revisional application were not present in-person before the said Court. The said joint compromise petition as has been filed before the learned revisional court does not bear the signatures of the parties to the said revisional application. It further appears to this Court that learned revisional court failed to ascertain as to whether the said joint compromise petition has actually been filed as per instruction of the parties to the said revisional application. No endeavour was made by the said revisional court to ensure the presence of the parties to the said revisional application before passing an order of acquittal on the basis of a petition for compounding the offences.
11. It thus appears to this Court that the learned revisional court acted mechanically without applying its judicial mind and passed the impugned order which in considered view of this Court cannot be sustained in the eye of law.

12. Accordingly, the instant appeal is allowed.
13. Consequently, the impugned order no. 22 dated 13.07.2012 as passed in Criminal Revision No. 2 of 2011 by learned Additional Sessions Judge, Fast Track Court –VI, Calcutta is hereby set aside.
14. Consequently, the order of acquittal of the present respondent no. 1, i.e., Ashok Kumar Biswas in connection with C. Case No. 13388 of 2004 is hereby set aside.
15. The entire T.C.R. is remanded to the Court of Chief Judge, City Sessions Court at Calcutta for hearing of the said Criminal Revisional Case No. 2 of 2011⁴ afresh. Learned Chief Judge, City Sessions Court at Calcutta may either hear the aforementioned criminal revisional case personally or he may transfer the said revisional case to any other Additional Sessions Judge and/or to any of the learned Judges of Fast Track Courts within his jurisdiction for hearing of the said revisional application afresh.
16. With the aforementioned observations, the instant appeal being **CRA 66 of 2013** is disposed of.
17. Department is directed to forward a copy of this judgment along with Trial Court Record to the Court of the learned Chief Judge, City Sessions Court at Calcutta forthwith.
18. Department is further directed to forward a copy of this judgment to the Secretary, Calcutta High Court Legal Services Committee who on receipt of the same shall disburse the admissible amount of honorarium in favour of Ms. Monami Mukherjee, learned advocate who has been

appointed by this Court to appear on behalf of the respondent no. 1 preferably within a month from the date of communication of this judgment.

19. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)

