

CRR 2489 of 2010
With
CRAN 1 of 2024

Subhas Kumar Agarwal
Vs.
The State of West Bengal & Anr.

Mr. Soumya Nag
Mr. Bimalendu Das
Ms. Shomrita Das
Mr. Shomrik Das ...for the petitioner

Mr. Anjan Paul
Mr. Safikul Mondal ...for the O.P. no. 2

This application has been preferred against the judgment passed by the court below, who affirmed the judgment of conviction passed by the trial court in a proceeding under Section 138 of the Negotiable Instrument Act being case no. C-1926 of 1999.

In the present application being CRAN no. 1 of 2024, the complainant stated on oath that upon intervention of friends and well-wishers a mutual understanding has been arrived at and the accused is desirous to pay a sum of Rs. 1,20,000/- to the complainant as full and final settlement by way of bank draft and the same shall be handed over to the complainant through his learned advocate at the time of final disposal of the present application.

Accordingly learned counsel appearing on behalf of the complainant/opposite party submits that his client wants to compound the offence in view of aforesaid amicable settlement.

Section 147 of the N.I. Act states that every offence punishable under the said Act is compoundable, notwithstanding anything contained in the Criminal Procedure Code. Section 320(6) of the Code empowers the High Court to compound any offence which such person is competent to compound under the section at any stage of the pending proceeding.

It is true that prayer for composition has been made by the parties herein after affirmation of his conviction order by the Appellate Court. However, Section 147 of N.I. Act does not bar the parties from compounding an offence under Section 138 even at this stage of proceeding before the High Court. Accordingly, I do not find any reason to reject complainant's aforesaid prayer for composition in view of aforesaid joint affidavit made in the application.

Since the parties have settled their dispute, in keeping with the spirit of Section 147 of the N.I. Act, the prayer made by the parties to compound the offence is liable to be allowed.

In view of above, the offence under Section 138 of the N.I. Act is hereby compounded. The judgment and order passed by the court below on 9th July, 2010 in Criminal Appeal no. 4 of 2010 and the judgment of Trial Court dated 29.8.2002 passed by Metropolitan Magistrate, 13th Court, Calcutta are hereby set aside. The petitioner herein is acquitted from the charges made against him.

CRR 2489 of 2010 along with CRAN 1 of 2024 are accordingly disposed of.

Urgent photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)