

03.03.2025
Item No.22
AP

**CRR 4598 of 2022
With
CRAN 4 of 2024**

**Supriya Chakraborty and Anr.
Vs.
State of West Bengal and Anr.**

Mr. Dhiraj Trivedi, Senior Advocate
Mr. Bikash Kr. Singh
Ms. Swapana Jha

... For the Petitioners.

Mr. Sayak Ranjan Ganguly
Ms. Srijani Ghosh
Ms. Indrani Majumdar

... For the Respondent No.2.

1. By filing this revisional application under Section 482 of the Criminal Procedure Code, the petitioners challenged the judgement and/or order dated 2nd December, 2022 passed by the Chief Judge, City Sessions Court, Calcutta in Criminal Appeal No.167 of 2022.

2. By the said judgement and/or order the Appellate Court dismissed the appeal on the score that the Appellate Court has directed to pay the appellants 10% of the cheque amount that has not been paid. Learned Appellate Court held that having no other alternative the Court is form opinion that the appeal should be dismissed on that score itself.

3. Learned Counsel for the appellants and/or petitioners submits that the Appellate Court should have decided the appeal on merits but it was dismissed on the ground that the

appellants have not paid the 10% of cheque amount in spite of direction passed by the Learned Appellate Court.

4. Learned Counsel for the appellants and/or petitioners also relied upon decisions of the Hon'ble Supreme Court in the case of ***Vijay D. Salvi Vs. State of Maharashtra and Ors.*** reported in ***(2007) 5 SCC 741*** and the case of ***Bani Singh and Ors. Vs. State of U.P.*** reported in ***(1996) 4 SCC 720*** in support of his contention that even if appellants fail to pay the amount as directed by the Learned Appellate Court same may have been disposed of the case on merits.

5. On the other hand, learned counsel for the opposite party on his usual fairness and candidly submits that there is no default cause in Section 148 of the Negotiable Instruments Act, 1881. Therefore, this matter can be remanded back to the Appellate Court to decide on merits.

6. Having heard learned counsel for the parties and on perusal of the judgments as referred and/or impugned order dated 2nd December, 2022, this Court is of the opinion that the matter is liable to be dismissed as it is apparently erroneous. The Appellate Court ought to have decided the appeal on merits.

7. Accordingly, let this matter be remanded back to the Court below with a direction to dispose of the matter on merits as early as possible without granting unnecessary adjournment to the parties.

8. In view of the above, **CRR 4598 of 2022** is disposed of.
9. Consequently, all connected pending applications, if any, are also disposed of.
10. Let a copy of this order be communicated to the Court below for information and taking necessary steps.
11. All parties are to act in terms of the copy of this order downloaded from the official website of this court.

(Ajay Kumar Gupta, J.)