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05.03.2026
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C.R.A. (SB) 172 of 2025

Kansai Nerolac Paints Ltd.
Versus
Bhaskar Dhara

Mr. Anand Keshari
Ms. Pubali Debnath
Ms. Sneha Bhattacharjee
Ms. Dhriti Chandra.
...for the appellant.

Mr. Sayan Mukherjee
Mr. Sourav Mitra.
...for the respondent.

Learned advocate appearing for the appellant has prayed for interference with the order of acquittal dated 17.07.2025 which was on the ground of dismissed for default. Learned Judicial Magistrate, 12th Court, Calcutta has specifically recorded that the same is an order of acquittal under Section 256 of the Cr.P.C. in respect of the alleged offences under Section 138 of the Negotiable Instruments Act.

Learned advocate appearing for the respondent opposes the grounds on which the appeal has been preferred. It has been contended that none of the grounds which are being pleaded do apply to the present case as it was the complainant who was at fault and in spite of repeated adjournments being filed no show cause was preferred on 17.07.2025 when the order was passed.

Learned advocate for the appellant, on the other hand, submits that the appellant is a company being represented by its authorized representative. There may be certain issues for which

there was communication gap and the representative of the complainant-company was not present. However, the financial loss would incur to the complainant-company.

The case is under Section 138 of the Negotiable Instruments Act.

I have taken into account the fact that there were certain laches on the part of the appellant. However, it was also the duty of the learned Judicial Magistrate, 12th Court, Calcutta to ensure regarding the next date of the show cause notice. The impugned order do not reflect that show cause which was issued was received although the learned advocate took adjournment on previous two dates.

Be that as it may, the case has not been tried on merits and the complainant intends to pursue the same. Accordingly, as a matter of last chance, the complainant is directed to lead his evidence in consonance with the provisions of law. However, the same would not deprive the accused/respondent from availing the remedies available to him.

In view of the nature of the case, the possibility of loss being suffered by the company and the fact that the complainant has materials in his possession to prove the case as pleaded by the learned advocate, I am inclined to grant an opportunity to the appellant. Accordingly, the order dated 17.07.2025 (wrongly written as 11.07.2024) by the learned Magistrate be set aside. Both the parties would appear before the learned Magistrate on 2nd April, 2026. Learned Magistrate thereafter would proceed in accordance

with law.

Accordingly, CRA(SB)172 of 2025 is allowed.

Any observations made hereinabove is restricted for dealing with the appeal and will not touch the merits of future trial before the learned Judicial Magistrate.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

(Tirthankar Ghosh, J.)