

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 10068/2021

[Arising out of impugned final judgment and order dated 16-11-2021 in CRR No. 1671/2017 passed by the High Court at Calcutta]

BALAI CHANDRA MONDAL

Petitioner(s)

VERSUS

LAXMIPRIYA DEY & ANR.

Respondent(s)

(IA No. 12393/2023 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 5725/2022 - COMPOUNDING OFFENCE, IA No. 169176/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT & IA No. 169177/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 18-02-2025 This matter was called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE SUDHANSU DHULIA
HON'BLE MR. JUSTICE K. VINOD CHANDRAN**

**For Petitioner(s) Mr. Bijan Kumar Ghosh, AOR
Mr. Ujjwal Banerjee, Adv.**

**For Respondent(s) Ms. Anwesha Saha, AOR
Mr. Salim Ansari, Adv.
Mr. Wasim Rony, Adv.**

Mr. Kunal Mimani, AOR

**UPON hearing the counsel the Court made the following
O R D E R**

The petitioner before this Court, was convicted and sentenced to pay compensation of Rs.11,50,000/- only within 45 days and in default to suffer simple imprisonment for a period of 2 years by the Trial Court at Krishnagar, Nadia in Complaint Case No.1133C/2014 (TR 522/2014) for the offences punishable under Sections 138/142 of the Negotiable Instrument Act, an order which has been upheld by the Appellate Court as well as the High Court in revision vide orders dated 13.04.2017 & 16.11.2021. A cheque which was drawn on 24.02.2014 by the petitioner admittedly for an amount

of Rupees ten lakh, was dishonoured, but the admitted facts, which are now before us, are that this amount was directly paid by the petitioner to the respondent no.1-complainant on 18.08.2014. In addition to that he has already deposited an amount of Rupees five lakhs before the Trial Court concerned in compliance of order of the High Court dated 16.05.2017.

Presently, without getting into the merit of the case and considering the fact that the amount which has already been paid we do not think that the sentence which has been imposed on the petitioner presently is justified particularly considering the nature of the case and the decision of this Court in M/s. Meters and Instruments (P) Ltd. vs. Kanchan Mehta (2018) 1 SCC 560, where it was held that **the object of Section 138 of the Negotiable Instruments Act, is primarily compensatory and the punitive element of the said provision has the object of enforcing the compensatory element.**

We therefore, direct the Trial Court concerned that out of fine of Rupees five lakh, which has been deposited by the petitioner in the Trial Court, Rupees two lakh along with accrued interest, if any, be released in favour of the respondent no.1-complainant by the Court concerned within a period of two weeks from the date of receipt of the certified copy of this order and the remaining amount i.e. Rupees three lakh along with accrued interest, if any, shall be returned to the petitioner.

With these observations, the present petition is disposed of.

Pending application(s), if any, shall stand disposed of.

(NIRMALA NEGI)
COURT MASTER (SH)

(RAM SUBHAG SINGH)
ASSISTANT REGISTRAR