

Present :

Mr. Justice Ashish Ranjan Das.

**Criminal Appeal No. 844 of 2017**

**In the matter of:**

Sheikh Md. Nazrul Islam

..... Appellant

-Versus-

The State and another

..... Respondents.

None appears

.....For the appellant.

Mr. Mohammad Serajul Hoque, Advocate

..... Respondent No.2

Mr. Kazi Eliasur Rahman, A.A.G. with

Ms. Tahmina Sultana, A.A.G

... For the State

**Heard on:12.12.2022,02.01.2023 &10.01.2023**

**Judgment on: 12.01.2023**

**Ashish Ranjan Das, J:**

Learned Additional Sessions Judge, 1<sup>st</sup> Court, Gazipur by his judgment dated 10.11.2016 passed in Sessions Case No.1223 of 2014 convicted the accused appellant under section 138 of the Negotiable Instruments Act of 1881 and sentenced him to suffer rigorous imprisonment for 1(one) year followed by a fine of Tk. 6,00000/- (Six lacs) out of which

3,00000/- to be paid to the government exchequer.

The judgment was pronounced in absentia. In this stage also the appellant took adjournment but finally remained absent. However, I have heard the learned advocate for the complainant respondent and the learned Deputy Attorney General.

Short fact relevant for the purpose is that the appellant borrowed an amount from the complainant and on the pretext of repayment he gave him a cheque for Tk. 3,00,000/- on 30.09.2012 drawn on Janata Bank Limited, Magbazar branch account No. 4287. But the cheque was dishonored for non-availability of fund. The complainant sent a demand notice but of no avail. Cognizance was taken and the matter was tried by the 1st. court of Additional Sessions Judge, Gazipur. At that stage the appellant pleaded not guilty and claimed to be tried. But in trial the appellant remained absent. Hence the defence

version could not be known.

The defence version even could not be known from the grounds taken in appeal in terms of facts, there was no denial of issuance of the disputed cheque.

Thus, I find the trial court was not at fault in passing the judgment of conviction and sentence.

As a result, the appeal fails and the same is therefore dismissed. The judgment of conviction and sentence dated 10.11.2016 passed in Sessions Case No.1223 of 2014 by the learned Additional Sessions Judge, 1<sup>st</sup> Court, Gazipur is hereby upheld. The appellant is directed to surrender before the trial court in order to serve out the sentence.

Communicate the judgment and order to the court below.

Send down the L.C.R.

*(Justice Ashish Ranjan Das)*