

Present
Mr. Justice Sheikh Abdul Awal
Criminal Revision No. 2834 of 2017

Md. Didarul Alam
.....Convict-petitioner.

-Versus-
The State and others.
.....Opposite parties.

Mr. Mahidul Mawla Mukut, Advocate
.....For the Petitioner.
Mr. Md. Shameem Sarder, Advocate.
.....For the Opposite party No.2.

Ms. Shahida Khatoon, D.A.G with
Ms. Sabina Perven, A.A.G with
Ms. Kohenoor Akter, A.A.G
.... For the Sate.

**Heard on 21.05.2024, 26.05.2024,
02.06.2024 and Judgment on 03.06.2024**

Sheikh Abdul Awal, J:

This Rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and order dated 10.09.2017 passed by the learned Metropolitan Sessions Judge, 5th Court, Chattogram in Criminal Appeal No. 107 of 2017 dismissing the appeal and affirming the judgment and order of conviction and sentence dated 01.12.2016 passed by the learned Joint Metropolitan Sessions Judge, 6th Court, Chattogram in Sessions Case No. 275 of 2015 arising out of C. R. Case

No. 1821 of 2014, convicting the accused-petitioner under Section 138 of the Negotiable Instruments Act, 1881 and sentencing him thereunder to suffer simple imprisonment for a period of 6(six) months and to pay a fine of Taka 4,00,000/- (four Lakhs) should not be set-aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

Mr. Mahidul Mawla Mukut, the learned Advocate appearing for the convict-petitioner and Mr. Md. Shameem Sarder, the learned Advocate appearing for the complainant-Respondent Nos. 3-12 after placing an application dated 02.06.2024 jointly submitted that during the pendency of the Rule, the parties have amicably settled the matter by making a deed of compromise in which the petitioner has paid half of the cheque's amount to the complainant-opposite party Nos. 3-12 and as per deed of compromise the complainant-opposite party Nos. 3-12 should have withdrawn the money amounting to Taka 2,00,000/- (two lakhs) as deposited by the convict-petitioner at the time of preferring this criminal revision.

The learned Advocates for both the parties further jointly submitted that since both the parties have already made compromise over the dispute, the Rule may kindly be made absolute upon recording compromise, offence

under Section 138 of the Act may be compounded and the conviction of the petitioner is liable to be set-aside.

Having heard the learned Advocates for both the parties and perused the compromise petition filed under the joint signature of the learned Advocates for both the parties together with the deed of compromise (Annexure-H).

Having regard to the submission made by the learned Advocates for both the parties, I am of the view that there is no reason not to accept the compromise entered into between the parties. The Negotiable Instruments Act, 1881 is silent about compromise of offences under the Act, but the Act does not make any provision therein prohibiting such compromise. Since N.I. Act proceeding arises out of monetary transaction and the proceeding is a quasi civil and quasi criminal in nature, maximum sentence under the law is one year, I am of the view that the dispute between the parties under Negotiable Instruments Act proceeding has been resolved out of Court by the parties on compromise and the same should be allowed by the Court at any stage of the proceeding even at the appellate or revisional stage.

In the Supreme Court of India, it has been consistently decided that the offence under Section 138 of the Negotiable Instruments Act being compoundable.

For the reasons stated above, I allow the prayer made on behalf of the contesting parties with the direction that compromise done by the parties is hereby accepted and dispose of the Rule on the basis of the said compromise.

Accordingly, the Rule is made absolute by holding that since the matter has been compromised between the parties and the amount in terms of the said compromise has been paid, the petitioner is entitled to acquittal.

The order of conviction and sentence passed by the trial Courts below are set-aside and the petitioner is acquitted of the charge under Section 138 of the Act. Convict petitioner, Md. Didarul Alam is discharged from his bail bond and the trial Court is directed to allow the complainant-opposite party Nos. 3-12 to withdraw half of the cheque's amount deposited in the Trial Court by the convict-petitioner for the purpose of preferring the Criminal Appeal.

The Rule stands disposed of in the above terms.

Send down the lower Courts records at once.