

Present :

Mr. Justice Ashish Ranjan Das.

Criminal Revision No.1845 of 2018

In the matter of:

Mostofa Kamal

..... Petitioner

-Versus-

The State and another

..... Opposite parties.

Mr. F.M. Mizanur Rahman, Advocate

.....For the petitioner.

Mr. Md. Mizanur Rahman Khan, Adv.

..... Opposite party No.2

Mr. Md. Fazlur Rahman Khan, D.A.G with

Ms. Shama Akter, A.A.A.G

... For the State

Heard on: 08.11.2022 and 09.11.2022

Judgment on: 16.11.2022

Ashish Ranjan Das, J:

The learned Joint Metropolitan Sessions Judge, 1st Court, Khulna by his judgment dated 04.04.2017 passed in Metropolitan Sessions Case No. 935 of 2016 convicted the accused petitioner under section 138 of the Negotiable Instruments Act,1881 and sentenced him to suffer simple imprisonment for 4 months

coupled with a fine of cheque amount of Tk. 5,00,000/-.

Being aggrieved the convict petitioner preferred criminal appeal no. 227 of 2017 before the learned Metropolitan Sessions Judge, Khulna and the learned appellate court by order dated 30.04.2018 dismissed the appeal and thereby upheld the order of conviction and sentence passed by the court below. Hence is this criminal revisional application at the instance of the accused appellant petitioner.

None appeared to press the petition although it has been occurring in the daily cause list over the period with the name of the advocate.

However, I have heard the learned advocate for the complainant opposite party and perused the record.

Short facts are that according to the prosecution the petitioner accused borrowed Tk. 5 lacs from the complainant. As he failed to repay, he gave a cheque of Tk. 5 lacs to the complainant on 10.11.2015 but the cheque was bounced back by the concerned Sonali Bank, Corporate Branch, Khulna for want of money.

The complainant sent a legal notice on 25.11.2015 but of no avail, hence was the case.

The defence that could be some how gathered from the grounds taken here and the cross-examination of the complainant P.W.1 is that the accused petitioner left some blank signed cheques at the complainant's house.

However, the petitioner could not produce any evidence respecting pilferage of the cheque excepting putting a suggestion to the complainant and the learned trial court as I see who justified in finding the case proved. The sentence too is not harsh and the fine was only the cheque amount. I find that the lower appellate court committed no illegality in upholding the judgment of conviction and sentence.

Therefore, I find hardly any merit in this petition and same is therefore discharged and the judgment of conviction and sentence passed in Criminal Appeal No. 227 of 2017 dated 30.04.2018 arising out of Metropolitan Sessions Case No.935 of 2016 judgment dated 04.04.2017 is hereby upheld.

Communicate the judgment and order to the courts below.

(Justice Ashish Ranjan Das)

Bashar B.O