

Present :

Mr. Justice Ashish Ranjan Das.

**Criminal Appeal No. 1265 of 2021**

**In the matter of:**

Riaz Uddin

.....

Appellant

-Versus-

The State and another

.....

Respondents.

Mr. Anisur Rahman with

Mr. Md. Belayet Hossain, Advocates

.....For the appellant.

Mr. Baki Md. Murtoza, Advocate

...For the respondent No.2.

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

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

Ms. Tahmina Sultana, A.A.G

... For the State

**Heard on:16.03.2023 and 03.04.2023**

**Judgment on: 05.04.2023**

**Ashish Ranjan Das, J:**

Learned Additional Metropolitan Sessions Judge,  
6<sup>th</sup> Court, Dhaka by her judgment dated 26.02.2020  
passed in Metro. Sessions Case No.14769 of 2017  
arising out of C.R. Case No. 139 of 2017 convicted

the appellant under section 138 of the Negotiable Instruments Act of 1881 and sentenced him to suffer simple imprisonment for 1(one) year followed by a fine of Tk. 16 lacs that is the cheque amount.

Being aggrieved the convict appellant preferred this appeal with the statutory deposit.

Short fact is that this appellant on the pretext of repaying a debt gave a cheque of Tk. 16 lacs on 19.02.2017 drawn on Islami Bank Limited, Jatra Bari Branch, Dhaka. However, the cheque was bounced on 20.02.2017 for inadequacy of fund. The complainant sent a legal notice but of no avail. Hence is this case.

I have heard the learned advocates for both the sides and perused the record.

The defence case is that as the learned advocate Mr. Anisur Rahman for the appellant prayed that the appellant lost a signed but blank cheque, for which he already registered a G.D. But using the signed but

blank cheque, the complainant created this fictitious case.

However, the learned advocate for the respondent-complainant submitted that the appellant was supposed to produce the G.D that he had actually lost his cheque. But keeping recording of evidence incomplete he absconded and he thus could not produce any document in his defence. The learned advocate for the appellant frankly admitted that he thus have no more explanation. Thus, I find the judgment good in law and no merit in this appeal. The fine levied also does not appear harsh as only the cheque amount was awarded as fine.

As a result, the criminal appeal is dismissed. The judgment of conviction and sentence dated 26.02.2020 passed in Metro. Sessions Case No.14769 of 2017 arising out of C.R. Case No. 139 of 2017 by the learned Additional Metropolitan Sessions Judge, 6<sup>th</sup> Court, Dhaka is hereby upheld.

The appellant is directed to surrender before the trial court in order to serve out the remaining part of sentence.

Communicate the judgment and L.C. records to the court below.

*(Justice Ashish Ranjan Das)*

**Bashar B.O.**