

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(CRIMINAL APPELLATE JURISDICTION)

**Present:**

Mr. Justice Mamnoon Rahman

**Criminal Appeal No. 3687 of 2021**

Md. Bodrul Islam Zinnah

.....Convict-appellant

**-VERSUS-**

The State and another

..... Respondents

Mr. Md. Abdul Malek, Adv.

..... For the appellant.

Mr. Mohammad Taifoor Kabir, DAG with

Mr. Md. Lokman Hossain, AAG

Mr. Md. Hatem Ali, AAG

..... For the respondent No. 1

None appears

..... For the respondent No. 2

**Heard & Judgment on: 28.08.2023.**

In the instant appeal, the convict-appellant has challenged the legality of the judgment and order of conviction and sentence dated 29.01.2017 passed by the learned Additional Sessions Judge, Judge, Jamalpur in Sessions Case No. 272 of 2013 arising out of C.R. Case No. 201(1) 2008 convicting the appellant under section 138 of the Negotiable Instrument Act, 1881 and sentencing him to suffer simple imprisonment for 06 (six) months and also to pay a fine of Tk. 4,96,617/- (Four lac ninety six thousand six hundred seventeen taka) only out of which cheque amount of money of Tk. 1,65,539/- (One lac sixty five thousand five hundred thirty nine taka) only will get the complainant Brac Bank Limited, Jamalpur Branch, Jamalpur and rest

Tk. 3,31,078/- (Three lac thirty one thousand seventy eight taka) only will be deposited government treasury.

Mr. Md. Abdul Malek, the learned Advocate appearing for the convict-appellant, submits that the appellant is in no way involved in the alleged offence and he has falsely been implicated in this case and the impugned judgment and order of conviction has been passed only on the basis of P.W-1 of the complainant-respondent No. 2 and not by any independent/neutral witness and as such the same is liable to be set aside for the ends of justice. He further submits that at the time of filing of the appeal the convict-appellant deposited the 50% of the cheque amount and also deposited the rest amount through Challan that means the appellant adjusted in full.

I have heard the learned Advocate for the convict-appellant-petitioner and perused the materials on record.

Since the convict-appellant adjusted the entire amount to the respondent bank, I am of the view that the instant appeal is required to be allowed. Accordingly, the instant appeal is allowed and the impugned judgment and order dated 29.01.2017 passed by the court below as well as fine relates to the government treasury is hereby set aside. The convict-appellant is released from the bail bond.

Send down the lower Court's records (LCR), if any, at once. Communicate the judgment and order to the Court concerned forthwith.

(Mamnoon Rahman, J:)