

In The Supreme Court of Bangladesh
High Court Division
(Criminal Miscellaneous Jurisdiction)

PRESENT:

**MR. JUSTICE ABU TAHER MD. SAIFUR RAHMAN
AND
MR. JUSTICE KHANDAKER DILIRUZZAMAN**

CRIMINAL MISCELLANEOUS CASE NO. 32443 OF 2021

Md. Abu Sayed Chowdhury (Samrat).....Accused-Petitioner

-Versus-

The State and another.....Opposite parties

None appears.....For the petitioner

Mr. Faysal Hasan Arif, Advocate

...For the opposite party No. 2

Mr. Imran Ahmed Bhuiyan, DAG with

Mr. Mehadi Hasan (Milon), AAG and

Ms. Aleya Khandker, AAG

.....For the state

Heard on: 17.08.2023 and 20.08.2023

Judgment on: The 21st of August, 2023

ABU TAHER MD. SAIFUR RAHMAN, J.

This Rule was issued on an application filed by the accused-petitioner under section 561A of the Code of Criminal Procedure, 1898 calling upon the opposite parties to show cause as to why the impugned proceedings of Sessions Case No. 2458 of 2014, arising out of C.R. Case No. 69 of 2014 under section 138 of the Negotiable Instruments Act, 1881 now pending in the Court of Joint Metropolitan Sessions Judge, 7th Court,

Chattogram should not be quashed and/or such other or further order or orders passed as to this Court may seem fit and proper.

At the time of issuance of the Rule, this Court was pleased to stay the all further proceedings of the aforesaid Sessions Case No. 2458 of 2014 for **3 (three)** months from the date and also gave a direction upon the accused-petitioner to pay the amount of **Tk. 84,00,000/-** (Taka Eighty four lac) to the complainant bank or to made a negotiation with the bank for rescheduling the loan and thereby fixed the date on 06.12.2021 for compliance failing which the Rule shall stand discharged.

No one appears for the accused-petitioner to support the Rule or filed any affidavit of compliance.

Mr. Faysal Hasan Arif, the learned Advocate for the opposite party No. 2 submits that as per Court order dated 06.09.2021, the accused-petitioner did not deposited any amount as directed by this Court and as such the instant Rule is liable to be discharged.

On perusal of the materials on record it transpires that the Rule was issued on 06.09.2021 and by this time 3 (three) years have already gone. The accused-petitioner

neither appeared or filed any affidavit of compliance. Since, the accused-petitioner failed to comply with the Court order dated 06.09.2011, the Rule is liable to be discharged.

As a result, the Rule is discharged.

Since, it is a very old case, the trial Court is hereby directed to proceed with the case in accordance with the law.

The order of stay granted earlier by this Court is hereby stand vacated.

Communicate this judgment and order at once.

Khandaker Diliruzzaman, J:

I agree