

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

**Criminal Appeal No. 10749 of 2023**

Md. Abul Kalam.

...Convict-petitioner

**-VERSUS-**

The State and another.

... Opposite parties

**Present**

Mr. Justice Mamnoon Rahman

Ms. Rana Kawser, Adv.

... For the appellant-petitioner.

Mr. Md. Taifoor Kabir, DAG with

Mr. Md. Lokman Hossain, AAG

Mr. Md. Hatem Ali, AAG

...For the State.

Mr. Md. Shahin Hawlader, Adv.

...For the complainant-respondent No. 2.

**Heard on: 13.02.2024**

**And**

**Judgment on: 15<sup>th</sup> February, 2024**

This appeal is directed against the judgment and order of conviction and sentence dated 09.11.2017 passed by the learned Sessions Judge, Moulavibazar in Sessions Case No.143 of 2016 arising out of C.R. Case No.27 of 2015 (Moulavibazar Sadar) convicting the appellant under section 138 of the Negotiable Instrument Act, 1881 and sentencing him to suffer imprisonment for 06(six) months and a fine of Taka 9,70,698/- (nine lac seventy thousand six hundred ninety eight).

I have heard the learned Advocates for the appellant-petitioner as well as the respondent-complainant. I have perused the supplementary affidavit filed by the appellant-petitioner annexing the certificate issued

by the concerned bank who filed the complainant petition against the present appellant-petitioner.

On perusal of the same, it transpires that the bank has filed the instant complaint petition case as the borrower guarantor failed to repay the loan amount and ultimately the trial court convicted and sentenced the appellant-petitioner. But on perusal of the Annexure-X as evident in supplementary affidavit it transpires that in the meantime the borrower has adjusted the entire liability and there is no due payable to the bank.

Considering the facts and circumstances, the instant appeal is allowed and the impugned judgment and order of conviction and sentence passed by the court below is hereby set aside. The appellant-petitioner be discharged from the bail bond.

Since the appellant-petitioner paid the entire due amount, the appellant-petitioner is at liberty to withdraw the money as deposited earlier in the trial court.

Send down the L.C. records to the concerned court below with a copy of the judgment at once.

(Mamnoon Rahman,J:)

*Emdad. B.O.*