

**IN THE SUPREME COURT OF
BANGLADESH**

HIGH COURT DIVISION

(CRIMINAL REVISIONAL JURISDICTION)

Present:

Mr. Justice Md. Shohrowardi

Criminal Revision No. 6053 of 2024

Md. Morshed Alam

.....Convict petitioner

-Vs-

The State and another

....Opposite parties.

No one appears

....For the convict petitioner.

No one appears

....For the opposite party No.2

Mr. Md. Anichur Rahman, DAG with

Mr. Mir Moniruzzaman, AAG with

Mr. Md. Sarwar Alam Khan, AAG

with

Ms. Nargis Parvin (Alija), AAG

..... For the State

Heard on 11.01.2026 and 01.02.2026

Judgment delivered on: 15.02.2026

On an application under section 439 of the Code of Criminal Procedure, 1898 Rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and order dated 02.10.2024 passed by Additional Metropolitan Sessions Judge, Court No. 4, Chattogram in Criminal Appeal No. 285 of 2024 affirming the judgment and

order of conviction and sentence dated 04.07.2023 passed by Joint Metropolitan Sessions Judge, Court No. 6, Chattogram in Sessions Case No. 272 of 2023 arising out of C.R. Case No. 103 of 2022 (Chawk Bazar) convicting the petitioner under section 138 of the Negotiable Instruments Act, 1881 and sentencing him thereunder to suffer simple imprisonment for 10(ten) months and fine of Tk. 10,00,000/- (ten lakh) should not be set aside and/or pass such other or further order or orders as to this court may seem fit and proper.

The prosecution's case, in short, is that the accused Md. Morshed Alam issued cheque No. 0167246 on 28.12.2021 drawn on his Account No. 0101440151122 maintained with Eastern Bank Limited for payment of Tk. 10,00,000 in favour of the complainant. The complainant presented the cheque on 29.12.2021 for encashment, but it was dishonoured on 30.12.2021. Thereafter, the complainant published a legal notice on 21.01.2022 to the accused Md. Morshed Alam, through the daily newspaper, "The Daily Sangram," for payment of the cheque amount, but he did not pay the cheque amount within the time. Consequently, he filed the case on 16.03.2022.

After filing the complaint petition, the complainant was examined under section 200 of the Code of Criminal Procedure, 1898, and the Joint Sessions Judge, Court No. 6, Chattogram, was pleased to take cognizance of the offence against the

accused under section 138 of the Negotiable Instruments Act, 1881.

During the trial, the prosecution examined 01(one) witness to prove the charge against the accused. Since the accused was absconding, he was not examined under section 342 of the Code of Criminal Procedure, 1898. After concluding the trial, the trial court by impugned judgment and order convicted the accused and sentenced him as stated above, against which the accused filed the Criminal Appeal No. 285 of 2024 in the Court of Sessions Judge, Chattagram, who by impugned judgment and order affirmed the judgment and order passed by the trial court, against which he obtained the Rule.

P.W. 1 Md. Showkat Islam is the complainant. He stated that the accused Md. Morshed Alam issued cheque No. 0167246 on 28.12.2021 drawn on his account maintained with Eastern Bank Limited for payment of Tk. 10,00,000(ten lakh) in favour of the complainant. The complainant presented the said cheque on 29.12.2021 for encashment, which was dishonoured. On 21.01.2022, he sent a legal notice to the accused through the daily newspaper, namely, “The Daily Sangram,” but he did not pay the cheque amount. Consequently, the complainant filed the case. P.W. 1 proved the complaint petition as exhibit-1 and his signature on the complaint petition as exhibit-1/1 series, disputed cheque as exhibit-2, dishonoured slip as exhibit-3, and “The Daily Sangram” as exhibit-4 series.

No one appears on behalf of either party.

On perusal of the evidence, it reveals that the convict-petitioner Md. Morshed Alam issued cheque No. 0167246 on 28.12.2021 (exhibit-2) in favour of the complainant Md. Showkat Islam drawn on his Account No. 0101440151122 maintained with Eastern Bank Limited for payment of Tk. 10,00,000 (ten lakh). The complainant presented the said cheque for encashment, but it was dishonoured on 29.12.2021 (Exhibit 3). Thereafter, the complainant published a legal notice on 21.01.2022 in “The Daily Sangram” for payment of the cheque amount (exhibit-4), but the convict-petitioner did not pay the cheque amount. Consequently, he filed the case on 16.03.2022, complying with the procedures provided in clauses a to c of the proviso to section 138, sections 138(1)(1A) and 141(b) of the Negotiable Instruments Act, 1881. During the trial, the prosecution proved the charge against the accused beyond all reasonable doubt, and both the courts below, on correct assessment and evaluation of the evidence, legally passed the impugned judgment and order of conviction.

Considering the gravity of the offence and facts and circumstances of the case, I am of the view that ends of justice would be best served if the sentence passed by the trial court is modified as under:

The convict petitioner is found guilty of the offence under section 138 of the Negotiable Instruments Act, 1881, and

he is sentenced thereunder to suffer imprisonment for 04(four) months and a fine of Tk. 10,00,000 (ten lakh).

In the result, the Rule is disposed of with a modification of the sentence.

The trial court is directed to allow the complainant to withdraw 50% of the cheque amount deposited by the convict-petitioner before filing the appeal within 7 (seven) days from the date of filing the application, if any.

The convict petitioner Md. Morshed Alam is directed to surrender and deposit the remaining 50% of the cheque amount in the trial court forthwith, failing which the trial court shall do the needful following the law.

However, there will be no order as to costs.

Send down the lower Court's records at once.