

Present
Mr. Justice Sheikh Abdul Awal
Criminal Revision No. 294 of 2015

BRAC BDP

.....Complaint-Petitioner.

-Versus-

The State and another

.....Opposite parties.

Mr. Md. Zishan Mahmud, Advocate

...For the Complainant Petitioner.

None appears.

...for the accused-opposite party No.2.

Ms. Shahida Khatoon, D.A.G with

Ms. Sabina Perven, A.A.G with

Ms. Kohenoor Akter, A.A.G.

..... For the Opposite party No.1.

Heard on 12.05.2024 and Judgment on
13.05.2024.

Sheikh Abdul Awal, J:

This Rule was issued calling upon the opposite parties to show cause as to why the impugned order No.7 dated 31.08.2014 passed by the learned Additional Sessions Judge, Panchagarh in Sessions Case No. 60 of 2014 arising out of C. R. Case No. 124 of 2014 discharging the accused-opposite party No.2 from the charge under section 138 of the Negotiable Instruments Act, 1881 should not be set-aside

and/or such other or further order or orders passed as to this Court may seem fit and proper.

Having heard the learned Advocate for the complainant-petitioner and having gone through the materials on record, the only question that calls for my consideration in this criminal revision is whether the trial Court committed any error in discharging the accused-opposite party from the proceedings of the case under section 138 of the Negotiable Instruments Act, 1881.

On scrutiny of the record, it appears that the Senior Manager, legal unit of BRAC, BDP as complainant filed a petition of complaint being C.R Case No. 124 of 2014 in the court of learned Senior Judicial Magistrate, cognizance Court No. 5, Panchagarh against the accused-opposite party No.2, Md. Solaiman Ali under section 138 of the Negotiable Instruments Act, 1881 on the allegation that the accused in order to pay the outstanding dues issued a cheque of Tk. 86,825/-(Eighty six thousand eight hundred twenty five) bearing cheque No. $\frac{SB-10}{FG}$ 0324926 dated 15.01.2014 of Janata Bank Ltd, Atwari branch, Panchagarh in favour of complainant-petitioner and thereafter, the complainant presented the said cheque before the bank on 19.01.2014 for encashment which was returned unpaid for insufficient of fund and thereafter, the complainant sent a legal notice through his Advocate to the accused-opposite party on 28.01.2014 asking him to pay the cheque's amount within 30

days but the accused-opposite party did not turn to pay the cheque's amount and hence, the case.

On receipt of the petition of complaint, the learned Senior Judicial Magistrate examined the complainant under Section 200 of the Code of Criminal Procedure and took cognizance against the accused-opposite party under section 138 of the Negotiable Instruments Act, 1881 and issued summon against him fixing next date on 10.04.2014. Thereafter, the accused-opposite party voluntarily surrendered before the Court and obtained bail.

In this background, the case record was sent to the Court of the learned Sessions Judge, Panchagarh for trial, wherein the case was registered as Sessions Case No. 60 of 2014 which was subsequently transmitted to the Court of the learned Additional Sessions Judge, Panchagarh for trial.

In the course of trial the learned Additional Sessions Judge, Panchagarh by his order fixed the case on 31.08.2014 for charge hearing and on that date after hearing the parties by the impugned order dated 31.08.2014 acquitted the accused-opposite party from the case proceedings on the finding that the accused opposite party paid most of the loan amount with interest. Moreover, the case was filed after a long delay from the date of receipt of legal notice as well as from the date of dishonour of the cheque in question.

On an analyses of impugned order of discharge dated 31.08.2014 passed by the learned Additional Sessions Judge,

Panchagarh in Sessions Case No. 60 of 2014, I find no flaw in the reasonings of the trial Court or any ground to assail the same.

The learned trial Judge appears to have considered all the material aspects of the case and justly passed the impugned order dated 31.08.2014 discharging the accused-opposite party from the proceedings of the case under Section 138 of the Negotiable Instruments Act, 1881. No interference is, therefore, called for.

In the result, the Rule is discharged, the impugned order dated 31.08.2014 passed by the learned Additional Sessions Judge, Panchagarh in Sessions Case No. 60 of 2014 arising out of C. R. Case No. 124 of 2014 discharging the accused-opposite party No.2 from the proceedings under Section 138 of the Negotiable Instruments Act, 1881 is hereby affirmed.

Communicate this judgment at once.