

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No.1980/2017
(Arising out of S.L.P. (CrI.) No(s).7904/2017)

SRI ASHIS SUBBA

Appellant(s)

VERSUS

MANOJ KUMAR AGARWAL & ANR.

Respondent(s)

O R D E R

Leave granted.

2. This appeal is filed against an order passed by the High Court of Calcutta in C.R.R. No.1925 of 2016 whereby the revision petition filed by the appellant herein was dismissed and upheld the order passed by the trial Court convicting the appellant for commission of offence under Section 138 of the Negotiable Instruments Act and sentencing him to suffer simple imprisonment of one year and also to pay a fine of Rs.11,50,000/-, in default, to suffer further simple imprisonment for six months. The High Court granted liberty to the opposite party / complainant (respondent No. 1) to withdraw the sum of Rs. 4 lacs, if deposited by the appellant.

3. The factual background of the case in a nutshell is that a sale agreement dated 12.9.2011 in

respect of a shop in a commercial building, was entered into between the appellant (seller) and respondent No. 1 (purchaser) for a consideration of Rs.30,00,000/-. Afterwards, as the respondent No. 1 wanted to cancel the deal and sought refund of his money, the appellant had issued a Cheque bearing No. 002774 for an amount of Rs.8,53,531.51 in favour of Respondent No. 1 (complainant) which was dishonoured at the bank with the endorsement "fund insufficient", which led to the criminal proceedings under Section 138 of the Act.

4. When the matter was listed before us on 30-10-2017, learned counsel for the parties unanimously submitted that they are going to settle the matter out of Court by mutual negotiations and consent. Today, it is jointly submitted that the parties have decided to settle the dispute mutually in such way that the appellant shall pay an amount of Rs.8,50,000/- to the respondent No. 1 by a demand draft drawn on any bank in Kalimpong within a period of sixty days from the date of execution of Memorandum of Settlement. Learned counsel have also placed before this Court, the Memorandum of Settlement dated 11-11-2017 duly signed by both the

parties. Para 7 thereof reads thus:

"That the parties have entered into this agreement for the payment of the aforesaid amount which has arisen out of C.R. Case No.23/2013 and this agreement shall be filed before Hon'ble Supreme Court in S.L.P. (Crl.) No.7904/2017 - "Ashis Subba Vs. Manoj Kumar Agarwal & Anr." with a joint prayer for disposal of the said proceedings in terms thereof."

5. Let the Memorandum of Settlement dated 11-11-2017 be taken on record and it shall form part of this order. We direct the parties to abide by the terms and conditions as contained in the Memorandum of Settlement without fail.

6. Since the parties have amicably settled their dispute, we set aside the impugned order passed by the High Court and quash the sentence imposed upon the appellant. The appeal is disposed of in the afore-stated terms.

.....J
(N.V. RAMANA)

.....J
(AMITAVA ROY)

NEW DELHI,
17TH NOVEMBER, 2017.

ITEM NO.23

COURT NO.9

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 7904/2017

(Arising out of impugned final judgment and order dated 06-07-2017 in CRR No. 1925/2016 passed by the High Court at Calcutta)

ASHIS SUBBA

Petitioner(s)

VERSUS

MANOJ KUMAR AGARWAL & ANR.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.95825/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 17-11-2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA

HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s)

Mr. Arvind Kumar Sharma, Adv.

Ms. Sumi P.S., Adv.

Mr. F. I. Choudhury, AOR

For Respondent(s)

Mr. Arunabh Chowdhury, Adv.

Mr. Anupam Lal Das, AOR

Mr. Karma Dorjee, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order.

(VISHAL ANAND)
COURT MASTER (SH)

(RENUKA SADANA)
ASST.REGISTRAR

(Signed Order is placed on the file)