

Crl. Appeal No. 217/22
Barua Flowers v. Twin MultiFlora (P) Ltd.

19.12.2022

Fresh appeal under Section 374 Cr.PC is received.
It be checked and registered.

Present: Sh. Nalin Tripathi, Advocate for the appellant.

Heard and perused the record. The appellant is assailing the impugned judgment dated 14.11.2022 whereby he has been convicted under Section 138 of the Negotiable Instrument Act, followed by order on sentence dated 18.11.2022.

It is urged by the Ld. Counsel for the appellant that as per settlement arrived at between the parties on 07.03.2018, the appellant was liable to pay the settled amount of Rs. 48 lakhs by issuing 24 post-dated cheques (PDCs) each in the amount of Rs.2 lakh, payable by 22nd day of each calender month and starting from March 2018.

It is further vehemently urged that three impugned cheques each in the sum of Rs.2 lakhs were PDCs much prior to the issuance of demand notice dated 06.12.2018, the appellant had made part payments in respect thereof, and the whole of the amount of the cheques was not legally recoverable, which payments are reflected in the statement at Page No. 55 & 56 of the paper book.

(PTO)

It is also urged that the impugned judgment passed is in complete disregard of ratio laid down in Criminal Appeal No. 1497/2022 titled **Dashrathbhai Trikambhai Patel v. Hitesh Mahendrabhai Patel & Anr** of Hon'ble Judges of Supreme Court of India, dated 11.10.2022.

Ex-facie, the impugned judgment and order on sentence require deeper examination. The present appeal is admitted for its disposal and the sentence awarded by the Ld. Trial Court is suspended till disposal of the present appeal. Accordingly, the application for suspension of the sentence stands disposed of.

The appellant is admitted to bail subject to his furnishing personal bond in the sum of Rs.25,000/- with one surety of the like amount, to the satisfaction of the Ld. Trial Court.

Issue notice of the appeal to the respondent on filing of PF by all possible modes for **20.02.2023**.

Copy of the order be sent to the Ld. Trial Court.

(Dharmesh Sharma)
Principal District & Sessions Judge
New Delhi/19.12.2022