

Present :
Mr. Justice Ashish Ranjan Das.

Criminal Appeal No. 6325 of 2021

In the matter of:

Md. Nazmul Kadir
..... Appellant

-Versus-

The State and another
..... Respondents.

Mr. Muhammad Tawhidul Islam, Advocate
.....For the appellant.

Mr. Md. Tahid Uddin Shepon, Advocate
..... Respondent No.2

Mr. Kazi Eliasur Rahman, A.A.G. with
Ms. Tahmina Sultana, A.A.G

... For the State

Heard on:09.11.2022 and 14.11.2022

Judgment on: 12.12.2022

Ashish Ranjan Das, J:

Learned Additional Metropolitan Sessions
Judge, 7th Court, Dhaka in Metropolitan Sessions
Case No.2757 of 2018 arising out of C.R. Case No.
1713 of 2016 convicted the accused appellant Md.
Nazmul Kadir under section 138 of the Negotiable
Instruments Act of 1881 and sentenced him to suffer
simple imprisonment for 1(one) year and also to pay

a fine of Tk. 52,65,500/- (Fifty two lac sixty five thousand and five hundred) only, that is the cheque amount. Hence is this appeal upon statutory deposit of the amount.

None appeared to press the appeal, although the matter has been occurring in the daily cause list over the period with the name of the advocate.

However, I have heard the learned advocate for the complainant- respondent and perused the records.

Short fact is that as a part of business transaction, the accused appellant borrowed a huge amount of money from the complainant and on the pretext of repaying he issued a cheque of Tk. 52,65,500/- only on 29.09.2016. But the cheque was bounced back and the complainant sent a legal notice but of no avail.

It appears that the accused appellant did not stand the trial nor he cross-examined the P.W. The

learned trial court found the charge absolutely proved and handed down the above noted judgment. However, in appeal as grounds it was taken that no cause of action was proved nor the case was technically flawless. The learned trial court found the grounds not tenable and I also find nothing to disagree.

As a result, the appeal fails and the same is therefore dismissed. The judgment of conviction and sentence dated 03.07.2019 passed by the learned Additional Metropolitan Sessions Judge, 7th Court, Dhaka in Metropolitan Sessions Case No.2757 of 2018 arising out of C.R. Case No. 1713 of 2016 is hereby upheld. The appellant is directed to at once surrender before the trial Court to serve out the sentence.

Communicate the judgment and order to the court below.

Send down the L.C.R.

(Justice Ashish Ranjan Das)

Bashar B.O