

Court No. - 92

Case :- APPLICATION U/S 482 No. - 8505 of 2006

Applicant :- Hariom Garg

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- R.N. Sharma, A.K. Sharma

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Anish Kumar Gupta, J.

1. Heard Sri Atul Sharma, Advocate holding brief of Sri A.K. Sharma, learned counsel for the applicant and Sri Pankaj Srivastava, learned A.G.A. for the State.

2. The instant application has been filed seeking quashing of complaint dated 12.08.2004 filed by respondent no.2 in Complaint Case No.1385 of 2004 (New No.2552 of 2005) M/S Mukta Shree Prakashan Mandir Meerut Vs. Hariom Garg Proprietor M/S Garg Book Agencies, Agra, under Section 138 Negotiable Instruments Act, Police Station Lalkurti, District Meerut, pending in the court of Additional Chief Judicial Magistrate, Meerut.

3. Learned counsel for the applicant submits the instant complaint has been filed by opposite party no.2 for dishonour of cheque under Section 138 of Negotiable Instruments Act. Learned counsel for the applicant does not dispute that the cheque was signed by the applicant herein and all the components of Section 138 of Negotiable Instruments Act have been fulfilled before filing the complaint under Section 138 of Negotiable Instruments Act.

4. From perusal of the complaint it appears that the cheque was issued on 28.06.2004 which was dishonoured vide memo dated 05.07.2004 for the reasons of "Funds Insufficient". Thereafter, a demand notice was sent by registered post by the complainant on 19.07.2004 but no payment was made, therefore, the instant case was filed after expiry of the notice period. Therefore, in the considered opinion of this Court, *prima facie*, offence under Section 138 of Negotiable Instruments Act is constituted against the applicant.

5. In view of the above, the instant application is devoid of merit and is hereby **dismissed** accordingly.

Order Date :- 28.11.2023

Atul