

Court No. - 80

Case :- CRIMINAL MISC. WRIT PETITION No. - 450 of 2015

Petitioner :- Heera Lal

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Rupak Chaubey, Devesh Kumar, Rajesh Kumar Dubey

Counsel for Respondent :- Govt. Advocate, Manu Khare

Hon'ble Subhash Chandra Sharma, J.

1. Rejoinder affidavit has been filed on behalf of the petitioner in the Court today, which is taken on record.
2. Heard learned counsel for the petitioner, learned counsel for the respondent, learned A.G.A. for the State-respondents and perused the record.
3. Counter affidavit and rejoinder affidavit have been exchanged.
4. The instant writ petition has been filed to stay the effect and operation of Complaint Case No. 681 of 2013 (Vinay Verma Vs. Heera Lal Singh), under Section 138 N.I. Act, Police Station Prem Nagar, District Jhansi, pending before the Court of learned Judicial Magistrate, Court no.11, Jhansi.
5. It is submitted that in this case two cheques are said to be given by the revisionist to the opposite party no.2 which were presented before the Bank concerned and subjected to dishonor on account of insufficient fund and closure of account. It is further submitted that there was manipulation in the cheque said to be issued by the drawer/ revisionist bearing no. 229084.
6. Initially, it was issued for Rs. 35,000/- and manipulation was made by adding the digit '1' prior to the digit '35,000/-'. Likewise, in the words Rs. One lakh was added. Even the date of issuance of cheque was also over written even though this fact was overlooked by the learned Magistrate at the passing of order in question and also by learned Court of Sessions while deciding the revision. It is also submitted that single notice was given for dishonor two cheques on the part of the opposite party no.2 and single complaint was filed for the same. Where, there were two cause of actions, two complaints must have been filed separately for each cheque. This fact was also overlooked by

the learned Magistrate as well as learned Court of Sessions. Therefore, request to set aside the orders as passed by the learned Courts below dated 27.07.2013 and 01.08.2014 and to allow this writ petition.

7. Learned A.G.A. for the State as well as learned counsel for the respondent has opposed the aforesaid prayer and contended that in this case two cheques were given by the drawer/ revisionist to the drawee/ opposite party no.2 for the amount of Rs. 1,35,000/- and Rs. 3,01,000/-. The amount was entered in figures as well as in words. There was no any manipulation in the contents of both the cheques. The amount was mentioned in figures and also in words in clear way. When both the cheques were subjected to dishonor on account of insufficient fund and closure of account, a legal notice was given by the drawee to the drawer within time, even though no payment was made. As a result, present complaint was filed. There is no bar under the law for giving single notice for dishonor of two cheques and also for filing a single complaint. This fact was well considered by both the learned Courts below and revisionist was summoned vide order dated 27.07.2013. There is no any illegality or impropriety in the order. Likewise, an order was passed by learned Additional Sessions Judge in Revision is also in conformity with law. There is no any illegality in the matter but this petition being devoid of merit is liable to be dismissed.

8. Considering the facts and circumstances of the case, submissions made by learned counsel for the petitioners, learned A.G.A., perusal of the record, and the orders passed by the learned Magistrate as well as learned Court of Sessions dated 27.07.2013 as well as 01.08.2014, it appears that two cheques were said to be issued by the drawer/ revisionist in favour of drawee/ opposite party no.2. One for Rs. 1,35,000/- dated 20.01.2013 and other for the amount of Rs. 3,01,000/- dated 25.02.2013 drawn on Central Bank and Allahabad Bank respectively. Both were presented before the banks concerned but subjected to dishonor. One for insufficient fund and other for closure of account, regarding which legal notice was given by the drawee to the drawer through learned counsel on 11.04.2013, in response to which reply was sent by the revisionist to the said opposite party but no amount was paid to him. As a result, the present complaint was filed before the learned Court of Magistrate under Section 138 of N.I. Act. The statement of the complainant under Section 200 Cr.P.C. was recorded. The cheques in original slip and bank memo with notice and its reply with postal receipt were filed. The statement made by the complainant and the material on record as above were taken into consideration by the learned Court concerned and summoning order dated 27.07.2013 was passed, against

which Criminal Revision was preferred before the learned Court of Sessions which was decided on 01.08.2014.

9. In the considered opinion of this Court there appears no illegality or impropriety in the orders passed by the learned Courts below as aforesaid, therefore, the matter does not warrant interference by this Court but this petition being devoid of merit is liable to be dismissed.

10. Accordingly, this writ petition is **dismissed**.

11. Interim order, if any, shall stand vacated.

Order Date :- 17.11.2023

Anurag/-