



2026:AHC:197000

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 15913 of 2005

Mehadi Hassain Shamin

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Ali Hasan

Counsel for Opposite Party(s) : Krit Raj Singh, Govt. Advocate, Man
Singh Verma

Court No. - 73

HON'BLE SANDEEP JAIN, J.

1. The instant criminal misc. application under Section 482 Cr.P.C. has been filed for the following relief:-

"It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to allow this application and to quash the criminal proceedings in criminal complaint case no.1757 of 2004 (Indrajeet Versus Mehendi) under sections 138, 142 of Negotiable Instruments Act of P.S. Line Bazar district Jaunpur pending in the Court of learned Chief Judicial Magistrate, Jaunpur including the cognizance order dt. 15.12.2004 and non bailable warrant dt. 3.7.2005 passed by Chief Judicial Magistrate, Jaunpur and judgment and order dt. 4.8.2005 passed by learned Sessions Judge, Jaunpur in criminal revision no.445 of 2005 (Mehandi Hussain Shamin Vs. State of U.P.)."

2. Factual matrix is that the complainant's wife Susheela Yadav and the accused applicant's wife Shaheen were close friends and classmates and since the accused applicant was in stringent need of money, hence the applicant's wife demanded an amount of Rs.37,500/- from the complainant's wife Susheela Yadav and pursuant to that demand the above amount was given in cash by the complainant's wife to the accused applicant. After passage of sufficient time, the complainant demanded his

money back from the accused applicant and after persistent demand, the accused applicant gave Cheque No.515849 dated 18.04.2004 from his Over Draft Bank Account No.1128 which was existing in the Punjab National Bank. On 20.4.2004, the above cheque was deposited by the complainant in his Saving Bank Account No.01190036892 which was subsequently returned dishonored due to insufficient fund by the State Bank of India, Jaunpur on 28.04.2004.

3. It is the case of the complainant Indrajeet Yadav that regarding the above dishonor of the cheque, he gave a registered notice through his counsel Shri Shiv Moorat Gupta, Advocate on 29.4.2004 to the accused applicant demanding from him the payment of the above cheque within 15 days which was received by the accused applicant but the payment was not made within 15 days. Instead on 30.5.2004 the accused applicant called the complainant at his in-laws house in Jaunpur. When the complainant and his brother Shyamjeet Yadav went to the above house of the accused applicant then the accused applicant pressurized them to sign on blank stamp paper and return back the original cheque to which the complainant refused and thereafter, the complainant and his brother were assaulted and abused by the accused applicant and his relatives regarding which criminal complaint was also made to the concerned Police Station on 31.5.2004 but no action was taken. Subsequently, the complainant instituted a complaint before the competent court on 03.06.2004 under Section 138 and 142 of the Negotiable Instrument Act along with Sections 420, 323 and 504 of the I.P.C. The complainant besides filing documentary evidence also examined himself under Section 200 Cr.P.C. and Sujeet Kumar under Section 202 Cr.P.C.

4. The court of Chief Judicial Magistrate, Jaunpur by order dated 15.12.2004 has summoned the accused for offence under Section 138/142 of the Negotiable Instruments Act against which the accused applicant preferred a Criminal Revision No.445 of 2005 which was dismissed by the Sessions Judge, Jaunpur by order dated 4.8.2005. Aggrieved against the above orders, the accused applicant has filed the instant criminal misc. application under Section 482 Cr.P.C.

5. Learned counsel for the accused applicant submitted that a mechanical

order has been passed by the Magistrate summoning the accused, which is devoid of any reason, which is illegal and unsustainable, which has also been illegally affirmed by the Revisional Court.

6. Per contra, learned counsel for the complainant/respondent No.2 submitted that cheque was issued in discharge of the legal liability by the accused applicant which was dishonored due to insufficient fund regarding which a legal notice was issued to the accused applicant to make the payment of the amount of cheque but still after receiving the notice, no payment has been made by the accused applicant, hence the complainant has filed the criminal complaint on which proper cognizance, in accordance with law, has been taken by the concerned Magistrate under Section 138 and 142 of the Negotiable Instrument Act which requires no interference by this Court under Section 482 Cr.P.C. With the above submissions, it was prayed that the instant criminal misc. application is devoid of merit and is liable to be dismissed.

7. I have heard the counsel for both sides and perused the record.

8. It is apparent from the record that the complainant's wife Susheela Yadav and the accused applicant's wife Shaheen were close friends and classmates and due to such acquaintance the accused applicant's wife demanded an amount of Rs.37,500/- from the wife of the complainant to which she readily agreed and this amount was paid in cash by the complainant-respondent to the accused applicant but after lapse of considerable time when despite persistence reminders this amount was not paid by the accused applicant then ultimately he was compelled to give Cheque No.515849 which was drawn on his back account in Punjab National Bank on 18.4.2004. The said cheque was deposited by the complainant in his bank account in State Bank of India, Jaunpur but the same has been returned dishonored due to insufficient fund on 28.4.2004.

9. It is further apparent from the record that for dishonor of the cheque, an amount of Rs.50/- was also deducted from the bank account of the complainant. The complainant gave a registered legal notice through his counsel Shiv Moorat Gupta dated 29.4.2004 to the accused applicant to make the payment of Rs.37,500/- along with interest at the rate of 12%

per annum and also collection charge of Rs.50/- as well as notice expenses of Rs.750/- failing which proceedings under Sections 138 and 142 of Negotiable Instrument Act as well as Section 420 of I.P.C. will be initiated against the accused applicant. The legal notice was duly received but no payment was made within 15 days, hence cause of action accrued in favour of the complainant.

10. It is further apparent from the record that in support of his complaint, the complainant examined himself under Section 200 Cr.P.C. and Sujeet Kumar under Section 202 Cr.P.C. The complainant also submitted the original cheque, dishonor memo and the legal notice before the concerned court. The Court of Chief Judicial Magistrate, Jaunpur by order dated 15.12.2004 duly considered the documentary evidence on record as well as the oral statement of the complainant under Section 200 Cr.P.C. and statement of Sujeet Kumar under Section 202 Cr.P.C. and after considering the above evidence was prima facie satisfied that offences under Sections 138 and 142 of the Negotiable Instrument Act are made out for which cognizance has been taken. It is further apparent that the order of Chief Judicial Magistrate was challenged by the accused applicant by filing criminal revision in the court of Sessions Judge, Jaunpur which has also been dismissed by the order dated 4.8.2005.

11. From the evidence on record it is apparent that the disputed cheque was issued in discharge of legal liability by the accused applicant which was duly deposited by the complainant in his bank account but the same has been returned dishonored on account of insufficient fund in the bank account of the accused applicant. The accused applicant has not denied that the disputed cheque bears his signature and was also issued from his bank account. At this stage, there is a presumption also in favour of the complainant under Section 139 of the Negotiable Instruments Act that the cheque was issued by the accused-applicant in discharge of his debt or other liability. In view of the documentary and oral evidence on record, the Trial Court has not committed any illegality in summoning the accused applicant for the offences under Section 138 and 142 of the Negotiable Instrument Act.

12. Accordingly, there is no merit in the instant criminal misc.

application and the same is dismissed. Consequently, both the impugned orders are affirmed. The interim order, if any, stands vacated.

13. The trial court is directed to expedite the trial and conclude the same on merit preferably within a period of six months from the date a certified copy of this order is produced before it without granting any unnecessary adjournment to either of the parties.

(Sandeep Jain,J.)

September 18, 2026
Rakesh