

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRIMINAL MISC. PETITION NO. 963 OF 2016**

Shiv Kumar alias Jawahar Saraf S/o Motilal Saraf, Aged about 53 years, R/o Behind Motilal Petrol Pump, Link Road, PS Tarbahar, Bilaspur (CG).

**... Petitioner**

**Versus**

Ramavtar Agrawal S/o Shri Jagmohan Das Agrawal, aged about 52 years, R/o Agrawal Bhawan, Vidyanagar, PS Tarbahar, Bilaspur (CG).

**... Respondent**

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| For Petitioner. | : | Shri Sudhir Agrawal, Advocate.                           |
| For Respondent  | : | Shri Prafull N Bharat and Shri Ankit Singhal, Advocates. |

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**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**06/09/2016**

1. The present petition under Section 482 Cr.P.C. has been preferred seeking for quashment of order dated 18.07.2016 passed by the Sessions Judge, Bilaspur, in Criminal Revision No.93/2016. Vide the said impugned order, the Sessions Judge has rejected the revision petition thereby affirming the order dated 14.03.2016 of the JMFC, Bilaspur, rejecting the petitioner's application seeking for an adjournment for the framing of the particulars of the offence.
2. The relevant facts for adjudication of the present dispute is that, the petitioner had issued a postdated cheque (No.251759) of Central Bank of India, Main Branch, Bilaspur, amounting to Rs.7.8 Crores in favour of the respondent towards discharge of

the liability in respect of a property dealing between the two and in respect of which there was an agreement dated 21.10.2014 entered into between them which has been enclosed in this petition as Ex. P/4. Subsequently, the petitioner did not discharge his liabilities towards the respondent. The cheque which was issued by the petitioner was put for encashment and the said cheque got dishonored by the Bank vide intimation dated 02.04.2015 with an endorsement of insufficient fund. A legal notice was sent on the same day i.e. 02.04.2015 by the respondent to the petitioner which was received by the petitioner somewhere on 9-10.04.2015. Service of legal notice stand proved as the petitioner has also replied to the legal notice on 15.04.2015 denying the claim put forth by the respondent. Since the petitioner did not make any payment to the respondent even after issuance of legal notice, the respondent had filed a complaint case before the JMFC, Bilaspur for initiating proceedings against the petitioner for the offence punishable under Section 138 of NI Act.

3. The JMFC after taking into consideration the evidence which have come on record, vide order dated 18.08.2015 took cognizance of the offence and registered a complaint case as criminal complaint case No.4664 of 2015.
4. Notice was issued to the petitioner and the matter was fixed for specifying the particulars of offence. The petitioner on 14.03.2016 moved an application seeking for an adjournment

before specifying the particulars of offence. The said application was rejected by the JMFC, Bilaspur, vide its order dated 14.03.2016. Against which, a revision petition was filed before the revisional court has also rejected the revision on 18.07.2016 leading to filing of this petition.

5. Learned counsel appearing for the petitioner submits that since the petitioner was agitating his revision before the revisional court against the registration of complaint, he sought for an adjournment and the court below has not considered the same. Therefore, the order rejecting his application seeking for an adjournment is bad in law and deserves to be set aside.
6. It is also submitted that the court below has not properly appreciated the request for time as there was a bonafide demand on the part of the petitioner to adjourn the matter in the light of his agitating the registration of complaint itself before the revisional court. He further submits that the court below has erred in not ensuring the availability of the ingredients while the particulars of the offence were being framed. According to him, the necessary ingredients required under Section 251 CrPC was missing from the order dated 14.03.2016.
7. Having heard the counsel for the parties and having perused the record including the order sheet dated 14.03.2016 whereby the court below has fixed the matter for specifying the particulars of the offence, it clearly reflects that all necessary ingredients required for adjudication of the offence under Section 138 of NI

Act was available and therefore, the JMFC, Bilaspur as well as the revisional court has rightly rejected the application for an adjournment. It is also pertinent to note that the order sheet clearly reflects that the matter for the last many occasions was being adjourned only for the same reason and at the same stage. Thus, the present petition being totally misconceived and without any substance deserves to be and is accordingly dismissed in limine.

**Sd/-  
(P. Sam Koshy)  
Judge**

inder