

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 814 of 2016**

- Mrs Polly Chakraborty W/o Dr. Achinto Chakraborty Aged About 40 Years R/o F-6, B-2, 3rd Floor, Shriram Towers, Vyapar Vihar, Bilaspur, P.S. Civil Line, Bilaspur, District Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

- Punjab National Bank Through Branch Manager/ Authorized Officer, Punjab National Bank, Budhwari Bazar Branch, Behind Railway Post Office, Bilaspur, Chhattisgarh. Tahsil & District Bilaspur, Chhattisgarh. Shri J.K. Sharma S/o S.K. Sharma Is No More Branch Manager/ Authorized Officer He Has Been Transferred.

---- Respondent

For Petitioner

Shri Saleem Kazi, Advocate.

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****08/08/2016**

1. The present Cr.M.P. has been preferred under Section 482 of CrPC whereby on 28.01.2016 the 7th Additional Sessions Judge, Bilaspur in Criminal Appeal No. 103/2012 has rejected the application under Section 91 of the CrPC preferred by the Petitioner.

2. The fact in brief is that the Respondent-Bank has initiated a proceeding under Section 138 of Negotiable Instrument Act against the present Petitioner on dishonouring of the cheques given by the Petitioner on account of insufficient fund. The Trial Court in the course of the evidence had exhibited certain documents which were the carbon copy, not the original which according to learned Counsel for the Petitioner appears to be tampered documents. Yet they have been exhibited at the evidence stage, the Court

below had relying the document as evidence on 02.02.2012, finally convicted the present Petitioner vide judgment dated 24.03.2012. Immediately after that, against the judgment of conviction an appeal was preferred i.e. Criminal Appeal No. 103/2012 which is still pending consideration for final hearing before the 7th Additional Sessions Judge, Bilaspur. Pending the appeal before the Sessions Court the Petitioner on 08.07.2015 moved an application under Section 91 of CrPC opposing the act on part of the Trial Court in accepting the said documents. The Appellate Court rejected the said application vide the impugned order, which led to the filing of the present Cr.M.P.

3. Without entering into the merits of the case at this juncture, declining to entertain the Petition, for a simple reason that in case if the Petition is accepted under powers under Section 482 CrPC would amount to going into the merits of the case, it would amount to literally hearing the Criminal Appeal itself and if the present Cr.M.P. is allowed, it would literally amount to the appeal itself being allowed.

4. Thus refraining to entertain the present Petition on the ground of the pendency of the appeal, the present Cr.M.P. is dismissed.

5. However, the Petitioner will have every right to address the Appellate Court on the issue whether the Trial Court was justified in accepting the carbon copy of the said document or not during the stage of the hearing of the case.

6. With the above observations, the present Cr.M.P. being devoid of merits stands dismissed.

Sd/-
(P. Sam Koshy)
JUDGE