

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 491 of 2016

D. Kiran Kumar Rao S/O D. Babu Rao Aged About 40 Years R/O.
G. Madhuban, A - 30, Amlidih, Chandrakar Mohalla, Raipur
Chhattisgarh

---- Petitioner

Versus

Vijay Soni Aged About 45 Years, S/O Late Hariram Soni R/O New
Rajendra Nagar, Near Sai Mandir, Raipur, District Raipur
Chhattisgarh

---- Respondent

For petitioner– Shri C.R. Sahu, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

27/04/2016

1. This petition is against the order dated 7/04/2016 passed by the Fourth Additional Sessions Judge, Raipur whereby order dated 15/10/2015 passed by the JMFC, Raipur was affirmed. Order pertains to issuance of notice under Section 138 of Negotiable Instruments Act, 1881 to the petitioner.
2. Brief facts of this case are that a complaint was filed under Section 138 of Negotiable Instruments Act, 1881 by the respondent/complainant Vijay Soni that the petitioner had obtained a loan of Rs.5,90,000/- for which a cheque was given and the cheque having been deposited with the bank, it bounced. Therefore, a notice was issued on 1/08/2015 and amount having not been paid the complaint was filed under Section 138 of Negotiable Instruments Act, 1881. Judicial Magistrate prima facie after being satisfied with the case offence under Section 138 of Negotiable Instruments Act, 1881 is made out issued notice to the petitioner for his appearance which was subject of challenge before the revisional court by the petitioner. Revisional court too dismissed the revision, therefore this

instant petition.

3. Learned counsel for the petitioner would submit that notice which was issued to the petitioner was neither bearing any cheque number nor the date or particular and for which the demand was made but instead without particular the demand was made, therefore cognizance taken by the court below is bad.

4. I have heard learned counsel for the petitioner. Perused the document filed along with the petition. It also encloses statement of the respondent/complainant under Section 200 of Cr.P.C. wherein date, cheque number everything has been categorically stated. Argument advanced by learned counsel for the petitioner cannot be appreciated and even all the facts can be confronted by the petitioner to the complainant during trial. Cognizance which has been taken prima facie appears to be correct. Therefore, after going through the order, I am not inclined to interfere in such order of taking cognizance i.e. order dated 15/10/2015 passed by the JMFC, Raipur or revisional court's order dated 7/04/2016 passed by the Fourth Additional Sessions Judge, Raipur. Prima facie no case is made out for consideration.

5. Accordingly, the petition is dismissed.

Sd/-
(Goutam Bhaduri)
JUDGE