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HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 954 of 2016**

- Sandeep Gupta S/o Purushottam Gupta Aged About 42 Years Proprietor Sandeep Stationary Mart & Book Depot, Dhamtari, R/o Ramsagarpara, Dhamtari, Tahsil & District Dhamtari Chhattisgarh

---- Petitioner**Versus**

- Abhay Thite S/o Appa Rao Thite Aged About 38 Years R/o Risaipara, Dhamtari, Tahsil & District Dhamtari Chhattisgarh

---- Respondent

For Petitioner : Mr. Reitesh Verma, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****06/09/2016**

1. The present Cr.M.P. has been preferred against the order dated 28.07.2016 passed in Criminal Revision No. 32/2016 by the Sessions Judge, Dhamtari whereby the Revision Petition preferred by the Petitioner against the framing of charge dated 07.04.2016 by the Chief Judicial Magistrate in Criminal Case No. 1343/2014, was rejected.
2. Learned Counsel for the Petitioner submits that the Revisional Court while rejecting the Revision held that order of framing of charge is perverse and is bad in law.
3. Learned Counsel for the Petitioner further submits that the contents of the complaint are all wrong and false as there was no transaction

between the Petitioner as well as Respondent-complainant. That there was no legally enforceable debt or liability which was there to pay to the complainant on part of the present Petitioner, for making out an offence under Section 138 of the Negotiable Instrument Act. According to him the Courts below have not considered these aspects at the time of framing of charge as well as while deciding the Revision Petition preferred by the Petitioner before the Revisional Court.

4. A perusal of the pleading in the Petition as well as the documents enclosed along with the Petition what clearly reflects is that prima facie there is material of the cheque being issued by the Petitioner in favour of the Respondent as is evident from the pleading of the Petitioner as also the Petitioner's non denial of the fact of issuance of cheque by the Petitioner. Thus, in the opinion of this Court as per the provisions of Section 139 of the Negotiable Instrument Act there is a prima facie presumption which has to be drawn in the present case and it is drawing this presumption that the Court below has framed the charge.
5. Thus, it can not be said to be a perverse order nor that can it be said to be illegal or infirm in any manner. The contentions put forth by the Petitioner are all matters of his defence which he would have to thrash out by leading an appropriate evidence and which would be considered by the Trial Court after all the evidences are recorded.
6. So far as quashment of framing of charge is concerned all that had to be looked into by the Court below at the time of framing of charge

is whether from the available materials there has been prima facie some materials to draw an inference of an offence having been committed and if based on the material available even if there is strong suspicion made out even then Court below would be justified in framing of charge. This Court under Section 382 CrPC does not have the power to re-appreciate the evidence and reach to a different conclusion at the stage of framing of charge.

7. Thus, for the aforesaid reasons in the opinion of this Court no strong case has been made out calling for interference with the order of framing of charge as well as the order passed by the Revisional Court while rejecting the same.
8. Accordingly the instant Cr.M.P. being devoid of merits, stands dismissed.

Sd/-

(P. Sam Koshy)
JUDGE