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HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1358 of 2016

- M/s Nirmala Power Ltd., Brijendra Mohan Amresh, S/o. Shri Ramjeevan Poddar, Aged About 42 Years, Director Of Nirmala Power Project & Proprietor Of Nirmala Constructions, R/o. 12/13 Vrindavan Colony, Bhagwanpur, Raigarh, Thana & Tahsil Raigarh, Civil & Revenue District Raigarh, District Raigarh, Chhattisgarh

--- Applicant

Versus

- Mukesh Agrawal, S/o. Fakirchand Agrawal, Aged About 45 Years, Occupation - Business, R/o. C-55, Vrindavan Colony, Bhagwanpur, Jindal Road Raigarh, Thana & Tahsil - Raigarh, District Raigarh Chhattisgarh

--- Respondent

For the Applicant : Mr. Sanjay Agrawal, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

16.12.2016

1. This is a petition filed under section 482 of the Code of Criminal Procedure.
2. Brief facts of the case are that complainant Mukesh Agrawal, respondent herein had filed a complaint case against the accused applicant u/s 138 of the Negotiable Instrument Act, 1882 wherein it is alleged that the applicant took loan from him and the same was entered in the ledger book of the complainant. The learned Magistrate took cognizance and issued notice to the applicant. Subsequently, the complainant submitted cheques and other documents in support of his complaint. Thereafter, the applicant moved an application u/s 91 Cr.P.C., for calling the ledger account of the complainant before the court below to prove that no such loan was taken by him from the complainant. The learned trial Court rejected the said application by

order dated 02.08.2016 which was also affirmed by the Revisional Court by order dated 14.09.2016.

3. Learned counsel for the petitioner would submit that the petitioner who is an accused in a case u/s 138 of the Negotiable Instrument Act, 1882 had filed an application to produce the ledger book of the complainant as it has been stated that all the transactions have been entered into the ledger book of the complainant. However, both the courts below rejected the same on the ground that the stage has not been matured to call for the documents.

4. Learned counsel makes submission that on the basis of law laid down in case of ***M/s. V.L.S. Finance Ltd. v. S.P. Gupta and another, AIR 2016 SC 721*** the applicant may be given liberty to file the application for calling the necessary ledger book and documents at appropriate stage that is at the stage of defence and since the stage of defence has not come, therefore, he wants to withdraw this case with liberty to move the application at an appropriate stage, if so advised.

5. Considering the prayer made by the petitioner, this petition is disposed of with an observation that the petitioner shall be at liberty to revive the application at appropriate stage showing the desirability and necessity of the ledger book/ documents. If such an application is filed in subsequent stage, the trial Court shall be obliged to decide the same in accordance with law.

Sd/-
GOUTAM BHADURI
JUDGE

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