

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(CR.) No. 8 of 2017

1. Ashraf Ali Khan, S/o. Late Abzal Khan, aged about 52 years, R/o. Qtr. No.9/B, Street No.16, Sector-5, Bhilai, District – Durg (C.G.)

----Petitioner

Versus

1. State of Chhattisgarh, Through : the Secretary, Home Department, Mantralaya, Mahanadi Bhawan, New Raipur, District – Raipur (C.G.).
2. Superintendent of Police, Durg, District – Durg (C.G.).
3. Station House Officer, Police Station Kotwali, Bhilai Nagar, Sector-6, Bhilai, District – Durg (C.G.).
4. Manish Tiwari, Farmer Manager, HDFC Bank, Alaksha Tower, Opposite Arogya Hospital, Lodhi Para Road, Raipur, District – Raipur (C.G.).
5. Sachin Chawla, Manager, HDFC Bank, Alaksha Tower, Opposite Arogya Hospital, Lodhi Para Road, Raipur, District – Raipur (C.G.)

---- Respondents

For Petitioner : Mr. Tarun Dadsena, Advocate

For State/Respondent : Mr. Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

06/01/2017

1. The instant petition is filed to register the FIR against the respondents No.4 and 5. It is alleged that petitioner has obtained a housing loan in the year 2002 from HDFC Bank at that time, a blank cheque was given to HDFC Bank and despite the payment made, the cheque was filled up with inflated amount and thereafter it was lodged for encashment and having dishonored, a case under Section 138 of Negotiable Instrument Act was filed, which was eventually dismissed in the year 2016.

2. Learned counsel for the petitioner submits that the cheque which was lodged was fabricated and further the respondent bank authorities have seized the house and have acted illegally, therefore, the FIR may be directed to be registered against them.
3. Perused the cheque dated 31.12.2008, which was filed along-with this petition of Rs.1,75,000/-. Admittedly, initially after bouncing of cheque, a case under Section 138 of Negotiable Instrument Act was filed against the petitioner, which was eventually dismissed for want of evidence on 20.01.2016 and after dismissal of that petition, the instant petition is filed. As stated the possession of the house has already been obtained by bank. As now appears, the petitioner is trying to take advantage of the fact of dismissal of petition U/s. 138 of Negotiable Instrument Act and efforts are made to open the issue to nullify the action taken by the bank, whereby the possession of the house has been taken under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Even otherwise, the petition appears to be hopelessly belated as the cheque lodged to be of the year 2008 and 8 years have already passed. In view of this I do not find any merits in this petition.
4. Accordingly, the petition is dismissed at the motion stage itself.

Sd/-
(Goutam Bhaduri)
Judge