

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 272 of 2017

- Suresh Kumar Nagesh S/o Shri Rati Ram Nagesh, Aged About 25 Years
R/o Village Geedam, Police Station & Tahsil Geedam, Civil & Revenue
District South Bastar Dantewada, Chhattisgarh.

---- Petitioner

Versus

- K. Bharat Rao S/o Shri Ramaiya, Aged About 42 Years R/o Rautpara,
Beejapur, Police Station & Tahsil Beejapur, Revenue District Beejapur,
Civil District Dantewada, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Paras Mani, Advocate.
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For Respondent	:	None.
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Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

03/08/2017

1. Heard.
2. Learned counsel for the petitioner submits that the petitioner is facing trial for offence under Section 138 of Negotiable Instruments Act, 1881. It is submitted that the cheque drawn by the petitioner was presented for payment by the respondent and was dishonored on 14.6.2008. Receiving this information, respondent dispatched a notice on 20.6.2008 to the petitioner and the notice was returned with an endorsement of refusal to take notice on 1.7.2008. Thereafter, the complaint was filed on 16.7.2008. The complaint filed is barred by limitation as it was required to be filed within 30 days from the date of dishonor of the cheque.
3. Petitioner moved an application for discharge from the offence leveled against him before the trial Court which was decided by order dated 29.1.2015 and the application was rejected. Revision petition No.4/2015

was heard by the Sessions Judge, South Bastar, Dantewada and decided on 2.2.2017, dismissing the revision petition holding that the complaint was presented before the Court within time.

4. The petition presented appears be misconceived as it is not the date of dishonored the cheque from which the limitation to present a complaint is counted, it is the date from which the time granted for payment of the amount of cheque lapse that the count for limitation begins. Taking into consideration, the date of dispatch the notice 20.06.2008, even if it is assumed that petitioner received information on the notice on the same date and time for making good the payment was to lapse on 5.7.2008, hence, the respondent had the limitation to file a complaint within 30 days from 5.7.2008 and the complaint is filed on 16.7.2008 within that period. Hence, the complaint against petitioner is not time barred.
5. On the basis of the reasons aforementioned, this petition is dismissed at motion stage.
6. Accordingly, the petition is stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
JUDGE