

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1777 of 2017

Gayanesh Dubey, S/o. Shri Govind Prasad Dubey, Aged About 53 Years,
R/o. Sikola Basti, Behind Hanuman Mandir, Durg, Police Station Mohan
Nagar Durg, Chhattisgarh.

---- **Petitioner**

Versus

Vijay Kumar Swain, S/o. Shri Goverdhan Swain, Aged About 46 Years,
R/o. C.H. 724, MPHB Kohka, Police Station Supela Bhilai, Durg,
Chhattisgarh.

---- **Respondent**

For Petitioner : Mr. Vipin Tiwari, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

12.12.2017

1. This petition is against the order dated 30.08.2017 wherein the learned Revisional Court has affirmed the order dated 21.03.2017 against the registration of the complaint under Section 138 of the Negotiable Instrument Act.
2. Learned counsel for the petitioner would submit that the respondent has filed a complaint under Section 138 of Negotiable Instrument Act for bounce of a cheque of Rs.2,00,000/- alongwith the notice charges and Advocate's fees has also been claimed which quantified to be Rs.2,20,000/-. It is contended that such amount cannot be demanded in view of the law laid down in case of *A.C.Raj v. M. Rajan & Anr.* reported in 1997 *Cri.L.J.* 1939.
3. Perusal of the record would show that it is a claim which has been made, but final adjudication has not yet been made by the Court below. Taking into such fact, at this stage, it cannot be stated that all the relief is going to be granted by the learned J.M.F.C., only by making a mere prayer in the complaint, a complaint cannot be

rendered to be without jurisdiction or illegal. The argument advanced by the learned counsel is premature in this petition. Consequently, no intervention is required at this stage. The issue raised can be very well agitated at the time of trial before the Court below.

4. With such observation, the petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge