

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1310 of 2017**

Sandeep Gupta S/o Purshottam Gupta Aged About 45 Years
Through Sandeep Stationary Mart And Book Dipo, Devshri
Talkies Road, District Dhamtari, Chhattisgarh., -- **Petitioner**

Versus

Manoj Sukhwani S/o Bhajan Lal Sukhwani, Aged About 39
Years R/o Risaipara, Ward Dhamtari, Chhattisgarh, Through
Bhajan Dukan Dry Fruits And Daily Needs, Sadar Bazar,
Dhamtari, District Dhamtari, Chhattisgarh. ---**Respondent**

For the applicant	:	Mr. V. C. Ottalwar, Advocate
For the Respondent	:	Mr. R. S. Patel, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

19.02.2018

1. Heard.
2. The instant petition is against the order dated 7.9.2017 passed in Criminal Revision No.35 of 2017 by the Additional Sessions Judge, Dhamtari, Distt. Dhamtari whereby the order dated 12.05.2017 passed by the CJM, Dhamtari in Criminal Case No.1342/2014 was affirmed and the revision was dismissed.
3. Learned counsel for the petitioner submits that a complaint under Section 138 of the Negotiable Instruments Act was preferred before the Chief Judicial Magistrate for the dishonour of cheque of Rs. 30 lakhs. Subsequently, an application was filed under section 145 (2) of the N.I. Act was preferred whereby witnesses were sought to be examined to

challenge the veracity of certain documents i.e., the statement of account and document showing payment of Income Tax. It is contended that considering those facts the application was filed, therefore, it is submitted that the orders passed by the Courts below are liable to be set aside.

4. Section 145(2) of the N.I. Act reads as under:

145. Evidence on affidavit.--

(1)

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any person giving evidence on affidavit as to the facts contained therein.

5. A perusal of the order sheets of the trial Court would show that the case is fixed for evidence of the complainant. Therefore, in such case the petitioner being accused shall be at liberty to cross examine the complainant and he may also file the documents during cross examination or his evidence and may produce the documents and witnesses to prove his defence. At this stage, the defence raised by the petitioner cannot be considered especially taking into consideration the fact that the complaint under section 138 of the Negotiable Instruments Act is summary in nature. The petition is premature. Therefore, I do not find any illegality in the orders passed by both the courts below dated 07.09.2017 & 12.05.2017 warranting interference by this Court. Consequently the petition is dismissed.

**Sd/-
GOUTAM BHADURI
JUDGE**