

22.01.2021
SL No.41
Court No.12
(gc)

**FMAT 29 of 2021
With
CAN 1 of 2021**

**M/s. Critical Mass Multilink Ltd.
Vs.
M/s. IFCI Factors Ltd.**

(Via Video Conference)

Mr. Moti Sagar Tiwari,
Mr. Hemant Tiwari,
...for the appellant.

This has come at the instance of the appellant that the appeal is arising out of an order dated 22nd December, 2020 in a Title Suit being T.S. No.1020 of 2020 provided by the plaintiff for an order of injunction restraining the defendant to enforce and utilize 12 undated cheques as pleaded in Paragraph 5 of the Stay petition. The plaintiff does not dispute that there has been some default in making payment in terms of the facility agreement. The plaintiff seems to have been prejudiced by the observation made by the learned Trial Judge to the effect that the disputes between the parties to be adjudicated before the Criminal Court as per provision of N.I. Act. It is an admitted position that the defendant issued notice dated 24th November, 2020 under Section 138 of the N.I. Act. The said observation of the learned Single Judge has to be read and understood in the context of a proceeding initiated under Section 138 of the N.I. Act for dishonour of 12 alleged undated cheques.

We find no reason to interfere with the impugned order at this stage. We clarify that the word “adjudicated” mentioned in the last paragraph of the impugned order means a decision in the proceeding initiated under Section 138 of the N.I. Act. We find that the matter is made returnable on 15th February, 2021 for further hearing of the injunction application.

The appeal being FMAT 29 of 2021 and the application being CAN 1 of 2021, accordingly, stand disposed of.

However, there shall be no order as to costs.

(Aniruddha Roy, J.)

(Soumen Sen, J.)