

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No. 1835 of 2018**

- Ashok Goyal S/o Shri Shankarlal Goyal Aged About 50 Years R/o Behind Agrasen Bhawan, Pendra, P.S. - Pendra, District - Bilaspur (C.G.)

---- Petitioner**Versus**

- Samir Aich S/o Late Asim Aash Aged About 40 Years R/o Aas Babugali, Jyotipur, P.S. - Gourela, District -Bilaspur (C.G.)

---Respondent

For Petitioner	: Shri Anand Shukla, Advocate
For Respondent	: Shri Ashok Soni, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****19.01.2021.**

1. This petition under Section 480 of the Code of Criminal Procedure is directed against the order dated 08.8.2018 passed by Additional Sessions Judge, Pendra Road, Distt. Bilaspur in Criminal Revision No.14/2018 affirming the order dated 20.4.2018 passed by Judicial Magistrate First Class, Pendra Road in Criminal Case No.558/2015 whereby the trial Court framed charges against the petitioner for offence under Section 138 of the Negotiable Instruments Act, 1881(for short 'the NI Act').

2. Learned counsel for the petitioner would submit that the learned court below has not considered the submission of the petitioner that there is no legally enforceable debt against the petitioner and the case is covered by Section 58 of the NI Act. He placed reliance in the matter of **Nanda vs. Nandkishor** reported in **(2010) 3 Maharashtra Law Journal 268**. He further submits that the petition may be admitted and the interim order

passed earlier may be extended.

3. I have heard learned counsel for the petitioner and perused the record.

4. The learned Magistrate has framed charges against the petitioner for the offence under Section 138 of the NI Act finding prima facie case against him. Submission of learned counsel for the petitioner is that charge under Section 138 of the NI Act is not made out against the petitioner in the light of Section 58 of the NI Act and further in view of the fact that there is no legally enforceable debt against the petitioner/accused. In the considered opinion of this Court, all these submissions are matter of evidence and can be considered during the course of trial. At this stage, these submissions cannot be considered being pre-mature. The petitioner is at liberty to raise all such plea before the trial Court at the time of evidence. As such, I do not find any merit in the argument on behalf of the petitioner and accordingly, the petition is dismissed. Consequently, IA No.01/21 for extension of interim order is also rejected.

Sd/-

(Sanjay K. Agrawal)

JUDGE