

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.4068 of 2011

M/s. Seven Hills Iron & Steel Ltd. Petitioner

-versus-

Dinabandhu Steel & Power Ltd. Opposite Party

CORAM: JUSTICE S.PUJAHARI

**ORDER
21.03.2022**

Order No.

09. 1. This matter is taken up through Hybrid mode.
2. The petitioner invokes the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure (for short "Cr.P.C.") for quashing of the order dated 13.02.2007 passed by the learned J.M.F.C., Cuttack in I.C.C. No.9 of 2007, a proceeding purportedly initiated under Section 138 of the Negotiable Instruments Act (for short "the N.I. Act") against him.

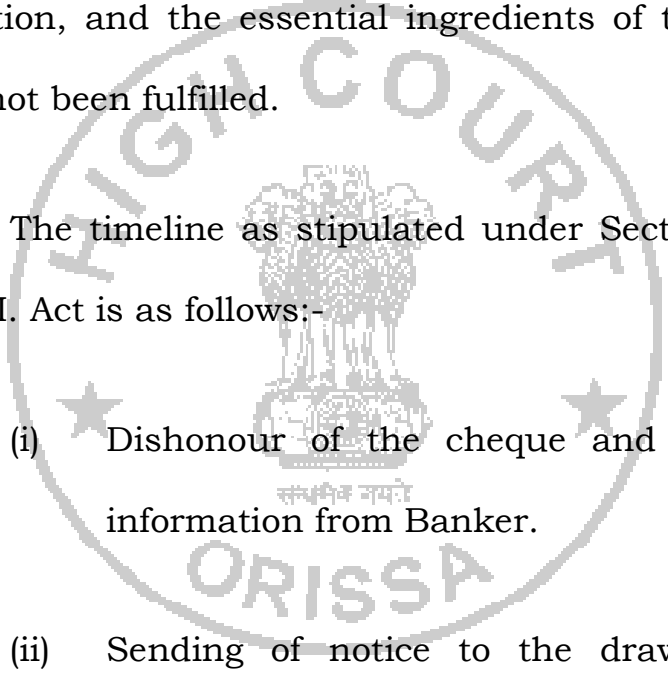
3. Heard the learned counsel for the petitioner and the learned counsel for the opposite party.

4. A perusal of the complaint filed by the opposite party before the Court below would reveal, inter-alia, that the petitioner issued two number of cheques in favour of the complainant-opposite party, one for Rs.3,60,488/- and the other for Rs.3,66,180/- towards part payment of dues and deposited both the cheques in complainant's account in U.T.I. Bank for encashment, and both the cheques were dishonoured and returned unpaid as per the Bank intimation dated 14.04.2006, due to stoppage of payment by the petitioner. As further stated by the complainant, he issued demand notice through his advocate to the petitioner on 30.09.2006 which was refused by the Managing Director of the petitioner-company on the ground of wrong mention of name of the Managing Director, and that again on 02.11.2006 he issued demand notice which was also returned due to refusal on the same plea. The complaint has been filed on 02.01.2007 and cognizance of the offence has been

taken by the Court below vide the impugned order dated 13.02.2007.

5. The accused-petitioner challenges the maintainability of the complaint, inasmuch as, according to him, as per the own version of the complainant vide his complaint, the case is barred by limitation, and the essential ingredients of the offence have not been fulfilled.

6. The timeline as stipulated under Section 138 of the N.I. Act is as follows:-

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- (i) Dishonour of the cheque and receipt of information from Banker.
 - (ii) Sending of notice to the drawer within thirty days of receipt of intimation from the Bank regarding dishonor of the cheque.
 - (iii) Lapse of notice period in fifteen days, i.e., the drawer does not pay the amount of

cheque within fifteen days of receipt of notice.

- (iv) Then the legal proceeding can be initiated within thirty days from the expiry of fifteen days time period after receipt of the demand notice by the drawer.

7. In the case at hand, the statutory timeline has not been maintained by the complainant, as mentioned hereinbefore. Hence, the impugned order can not be sustained in law.

8. In the result, this CRLMC is allowed and the proceeding in I.C.C. No.9 of 2007 before the Court below is quashed.

9. Urgent certified copy of this order be granted on proper application.

(S. Pujahari)
Judge

MRS