

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1133 of 2022

Hrushikesh Naik

....

Petitioner

-versus-

Mithun Choudhary & another

....

Opposite Parties

CORAM:

THE JUSTICE S.PUJAHARI

ORDER

12.08.2022

Order
No.

01. 1. This matter is taken up through Hybrid mode.
2. Heard learned counsel for the Petitioner.
3. This application under Section 482 of Cr.P.C. has been filed by the Petitioner with a prayer to quash the order dated 12.04.2022 passed by the learned Addl. Sessions Judge, Jharsuguda in Criminal Appeal No.07 of 2018 rejecting the petition filed by the Petitioner to adduce additional evidence.
4. It appears that the Petitioner being convicted in ICC No.126 of 2016 under Section 138 of the N.I Act filed an appeal before the appellate court which was registered as Criminal Appeal No.07 of 2018. The Petitioner made a prayer therein to exhibit the certified copy of the plaint of Money Suit No.11 of 2018 pending in the court of learned Civil Judge (Senior Division), Jharsuguda as the genesis for reasons of the drawal of the cheque as claimed in Money Suit for recovery of money, so also the proceeding under Section 138 of the N.I Act is quite

distinct and different which cast a cloud on the prosecution case that the cheque was drawn for legally enforceable debt or liability, which is sheet anchor of the offence charged. Hence, the prosecution against him is without any substance. The appellate court, however, refused to entertain the same on the ground that the offending cheque which was the subject-matter of the criminal prosecution being distinct and different than the money suit filed, such petition is without any substance. The reasoning appears to be just and proper, in the facts and circumstances of the case. Therefore, this Court is not inclined to interfere with the same.

5. Accordingly, this CRLMC filed challenging the said order to refuse the adduce additional evidence in the appellate stage at the instance of the accused suffers from no infirmity. Hence, in exercise of the power under Section 482 Cr.P.C., I am not inclined to entertain the petition.

6. Accordingly, this CRLMC stands dismissed.

(S. Pujahari)
Judge