

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CRLMC No.2339 of 2018**

***Ramakanta Behera.***

....

***Petitioner***

***-versus-***

***Surendranath Panigrahi.***

....

***Opposite Party***

**CORAM: JUSTICE S.PUJAHARI**

**ORDER**  
**08.07.2022**

**Order No.**

09.

1. This matter is taken up through Hybrid mode.
2. The petitioner in this application under Section 482 of the Code of Criminal Procedure (for short “Cr.P.C.”) has prayed for quashing the proceeding in I.C.C. No.515 of 2016 pending on the file of the learned J.M.F.C., Balasore.
3. Heard the learned counsel for the petitioner and the learned counsel for the opposite party.
4. Learned counsel for the petitioner submits that since the debt being barred by limitation, even cheque was issued subsequently and the cheque having been bounced, there is no legally enforceable debt or liability, and as such, in absence of the same, the Court could not have proceeded with on dishonor

of cheque, even if the other provision of Section 138 of the N.I. Act are complied with.

5. However, the learned counsel for the opposite party opposes the aforesaid submission of the learned counsel for the petitioner.

6. No doubt, legally enforceable debt or liability is the sheet anchor of the offence charged. But, prima-facie from the reading of the complaint petition this Court is not convinced of the arguments advanced by Mr. Lenka, learned counsel for the petitioner, inasmuch as question of limitation is a defence plea which cannot be appreciated at this stage. Therefore, this Court is not inclined to entertain the prayer made at this stage.

7. However, liberty is given to the petitioner to raise the aforesaid defence plea and any other plea available to him during the hearing of the case before the Court below and in that event, the Court concerned shall address the same in proper perspective vis-à-vis the evidence on record. Since it is a case under the Negotiable Instruments Act and pending near about six years, the trial Court is directed to proceed with the matter and dispose of the same as expeditiously as possible preferably within a period of six months of receipt of the certified copy of this order. Parties are directed to cooperate with the trial of the aforesaid case.

8. With the aforesaid order, this CRLMC stands disposed of being dismissed. Interim order dated 22.04.2019 passed by this Court stands vacated.

9. A copy of this order be communicated to the Court below forthwith.

**(S. Pujahari)**  
**Judge**

MRS

