

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.12 of 2015

Sukeshy Pani

....

Petitioner

Mr. Devashis Panda, Advocate

-versus-

Rabi Ranjan Dash

....

Opposite Party

M/s. N. C. Rout and associates, Advocates

**CORAM:
THE CHIEF JUSTICE**

**ORDER
14.10.2022**

Order No.

05. 1. The present petition has been filed questioning an order dated 22nd November, 2014 passed by the SDJM., Bargarh in 1CC No.78 of 2014 taking cognizance of the offence under Section 138 of the Negotiable Instruments Act, 1881 (N.I. Act) against the present Petitioner, who figures in the complaint filed by the Opposite Party as Accused No.2.
2. The complaint is about a cheque having been issued by Accused No.1-Company (New Look Multitrade Pvt. Ltd.) for a sum of Rs.2,00,000/- in favour of the complainant, which was dishonoured on presentation.
3. Mr. Devashis Panda, learned counsel for the Petitioner, points out that the Petitioner, who is the wife of one Lalit Mohan Pani, was neither the drawer of the cheque nor a person described as in-

charge of the affairs of the Company which actually issued the cheque.

4. Learned counsel appearing for the Opposite Party was asked to point out from the complaint the specific averment where it has been stated that the present Petitioner was in-charge of and responsible to the Company for the conduct of the business of the Company at the time that the offence was committed. In response, learned counsel for the Opposite Party refers to para 8 (3) of the complaint that says that Accused No.2 was the manager-in-charge for running business in Odisha, and in that capacity, Accused No.2 entered into a lease agreement.

5. The requirement of Section 141 of the N.I. Act is very specific. The averment has to be to the effect that the person was in charge of the affairs of the company and was responsible to the Company for the conduct of the business of the Company at the time that the offence was committed. Both these averments have to be made. The averment in the complaint in the present case does not satisfy the above requirement of Section 141 of the N.I. Act. Entering into the lease agreement is one thing but executing the cheque on behalf of the Company is completely different. Admittedly, the cheque in question was not signed by the present Petitioner.

6. In that view of the matter, the Court is satisfied that cognizance could not have been taken vis-à-vis the present Petitioner in the aforementioned 1CC No.78 of 2014. Accordingly, the impugned order dated 22nd November, 2014 passed by the SDJM, Bargarh in 1CC No.78 of 2014 so far as it takes cognizance of the offence

under Section 138 of the N.I. Act against the present Petitioner is hereby quashed.

7. The CRLMC is accordingly disposed of. A copy of this order be communicated to the concerned trial court forthwith.

(Dr. S. Muralidhar)
Chief Justice

S.K. Guin/M. Panda

