

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLP No.45 of 2021

Damodar Sahoo

....

Petitioner

Mr. H.B. Sutar, Advocate

-versus-

Rajesh Patel

....

Opp. Party

**CORAM:
JUSTICE S.K. SAHOO**

ORDER

18.02.2022

Order No.

01. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Learned counsel for the petitioner is permitted to mention the enrolment numbers and mobile numbers of the Advocates in the vakalatnama in Court.

Heard learned counsel for the petitioner.

Learned counsel for the petitioner submitted that the petitioner was the complainant in I.C.C. Case No.94 of 2012 which was filed against the opposite party for commission of offence under section 138 of the Negotiable Instrument Act (hereafter 'N.I. Act'). The opposite party faced trial in the Court of learned J.M.F.C., Sundargarh in the said case and was found guilty and sentenced to undergo simple imprisonment for one year so also to pay a compensation of Rs.5,50,000/- (rupees five lakhs fifty thousand) to the

complainant (petitioner). The opposite party preferred an appeal, which was heard by learned Sessions Judge, Sundargarh in Crl. Appeal No.05 of 2017 and the learned Appellate Court has held that though there is an establishment of the opposite party in the name and style of 'Patel Fabrication' and that he has signed in the cheque which was dishonoured on the ground of 'insufficiency of funds' and there is issuance of demand notice in the name of the opposite party in correct address, but the petitioner has failed to establish his business transaction with the opposite party so as to infer any legally recoverable debt or liability.

It is the contention of the learned counsel for the petitioner that such finding is perverse one.

Considering the submissions made by the learned counsel for the petitioner, leave is granted.

Learned counsel for the petitioner shall file the appeal memo within a period of four weeks from today whereafter, the appeal shall be placed for admission.

The CRLLP is disposed of.

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

(S.K. Sahoo)
Judge