

04.08.2023
Serial no. 68
[G.S.D]

CRR 2807 of 2023

In the matter of : Navratan Singh @ Nawratan Singh

... .. Petitioner

Mr. Abhishek Sikdar
Ms. Sahili Dey

... For the Petitioner

The present revisional application has been preferred challenging the continuance of Complaint Case No. 758 of 2022 under Section 138 of the N.I. Act.

Learned Advocate for the petitioner submits that so far as the subject-matter is concerned, it relates to a cheque, which is amounting to Rs.1 lakh. The payment has already been made to the complainant to the tune of Rs.97,000/- and, in spite of that, the complainant by suppressing the factual circumstances, have been able to create a cause of action for issuance of process by the Learned Judicial Magistrate, 4th Court, Asansol.

Learned Advocate has additionally harped on the issue under Section 202 of the Code of Criminal Procedure.

I have considered the submissions advanced by the Learned Advocate appearing for the petitioner. So far as the refund of the amount is concerned, if there is no reply to the

notice under Section 138 of the N.I. Act, in that case, it is not possible for this Court of law while exercising its powers under Section 482 of the Code of Criminal Procedure to conduct a mini trial thereby appreciating the documents relating to repayment.

The only option, which is left to the petitioner, is to adduce evidence or, by way of execution confronting the holder of the cheque.

So far as the issue relating to Section 202 of the Code of Criminal Procedure is concerned, the contention of the petitioner is that the case was instituted within the jurisdiction of Paschim Bardhaman, but the petitioner is a resident of Kalyani, Nadia.

I find from the order dated 18.8.2022 that the Learned Magistrate has examined the complainant under Section 200 of the Code of Criminal Procedure and, thereafter, on an assumption of the documents placed before him, was pleased to issue process for alleged offence under Section 138 of the N.I. Act.

The purpose of Section 202 of the Cr.P.c. is that, a person, who is staying far off, will not be unnecessarily harassed.

In the present case, there is nothing on record to show that the cheque was not issued by the present petitioner and his signature has been manipulated for the

purposes of invoking the jurisdiction of the Learned Magistrate.

That being the position, I do not find any reason to interfere with the continuation of the proceedings of Complain Case No. 758 of 2022 pending before the Learned Judicial Magistrate, 4th Court at Asansol.

However, the petitioner would be at liberty to take up the issue regarding the repayment in course of the trial either by confronting the complainant or the holder of the cheque and/or adducing his own evidence at the appropriate stage.

With the above observations, CRR 2807 of 2023 is disposed of.

Pending application(s), if any, is also disposed of.

Parties to act on a server copy of this order, duly collected from the official website of the Hon'ble High Court, Calcutta.

Urgent Photostat certified copies of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Tirthankar Ghosh, J.)