

19.09.2023
Serial no. 93
[G.S.D]

CRR 3265 of 2022

In the matter of : Bharat Pranlal Popat

... .. Petitioner

Mr. Subhojit Ghosh

Ms. Arunima Lala

... for the petitioner

The present revisional application has been preferred challenging the proceedings under Section 138 of the N.I. Act being C.S.-74735/17 pending before the Id. Metropolitan Magistrate, 16th Court, Calcutta.

Ld. Advocate for the petitioner is aggrieved by the order dated January 08, 2018. The challenge has been made in respect of the jurisdiction wherein the case has been instituted i.e. Calcutta.

Ld. Advocate submits that the loan agreement was entered into between the parties at Ahmedabad. The cheque was issued by the petitioner but not received by the bank at Ahmedabad. The complainant purposefully in order to harass the petitioner placed the cheque in a branch at Kolkata and invoked the jurisdiction of the Court under Section 138 of the N.I. Act.

Ld. Advocate also drew the attention of the Court to the loan agreement, wherein it is reflected that the parties would be bound by the jurisdiction at Ahmedabad.

Having regard to the fact that, in spite of the agreement between the parties being there, the provision of N.I. Act do entitle the payee or the holder in due course to invoke the provisions under Section 138 of the N.I. Act before a court having jurisdiction, wherein, the payee or the holder in due course maintains an account and in this case jurisdiction has been rightly invoked by the complainant.

In view of the above, I am of the opinion that, at this stage, by invoking the provisions of Section 482 of the Cr.P.C., no interference can be made in this revisional application.

However, the petitioner would be at liberty to adduce the evidence by way of which the authority of the court adjudicating the case can be changed in course of the trial.

With the above observations, CRR 3265 of 2022 is disposed of.

Pending application, 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 at Calcutta.

(Tirthankar Ghosh, J.)