

12.10.2023
Serial no. 74
[G.S.D]

CRR 3709 of 2023

In the matter of : Parmanand Bairwa

... .. Petitioner

Mr. S. N. Mukherjee
Mr. G. K. Sinha
Mr. N. Gupta
Mr. Abdus Shaid

... for the Petitioner

The Id. advocate for the petitioner submits that he had never issued the cheque and the cheque was issued by the accused no.1, who has expired, as such, the present petitioner has been implicated as an accused no.2 in a case under Section 138 of the N.I. Act.

Ld. Advocate submits that the provisions of the Negotiable Instrument Act do not empower any other person to be implicated as an accused, if any individual in his/her capacity issues a cheque.

I find that there is force in the submission advanced by the Id. advocate appearing for the petitioner. However, having regard to the fact that there is a death certificate which is to be assessed; the original cheque and its signature which is also to be reassessed as well as the other documents, which is in the custody of the Id. Metropolitan Magistrate, 4th Court, Calcutta, I am of the view that the Id.

Metropolitan Magistrate, 4th Court, Calcutta prior to proceeding under Section 251 of the Cr.P.C. would allow the present petitioner to canvass the issues which touches the route of the case, particularly, relating to that of cognizance and issuance of process.

If an application is taken out, then, the Id. Metropolitan Magistrate would reassess the same and arrive at its finding prior to the stage as has been stated above.

With the aforesaid observations, CRR 3709 of 2023 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.

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

(Tirthankar Ghosh, J.)