

D/L56
21.02.2024
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C.R.R.650 of 2024

In Re: An application under Section 482 of the Code of Criminal Procedure, 1973;

Prasanta Das
Versus
Sri Sukanta Mondal

Ms. Indrani Gupta
Mr. Arnab Mukherjee.
...for the petitioner.

Petitioner has challenged the proceedings arising out of Complaint Case No.2197 of 2022 which is pending before the learned Judicial Magistrate, 4th Court, Alipore under Section 138 of the Negotiable Instruments Act.

Learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated in connection with the instant case and to that effect relies upon certain documents which are enclosed, and includes the complaint made to the police authorities regarding loss of the cheque, the demand notice which was sent and the cheque being placed thrice wherein in one occasion the bank returned the cheque vide a memo citing signature differs. Attention of the Court was also drawn to the complaint initiated at the instance of the present petitioner being Complaint Case No.426 of 2023 wherein the petitioner has narrated his facts and claimed that a case for criminal breach of trust, cheating and forgery has been made out against the complainant of Complaint Case No.2197 of 2022.

The nature of the documents which have been relied

upon are not of sterling quality and/or impeccable nature that the same can be accepted at its face value without considering the genuineness of the same and/or attending circumstances to arrive at a finding that the cheque which was in possession of the opposite party no.2 was not issued in discharge of any legally enforcement debt or liability. The case, as such, needs to go for trial for appreciation of the facts of the case, be it in favour of the prosecution or the accused. In a summary manner the documents at its face value cannot be appreciated, assessed or scrutinized to give a final opinion regarding the debt arising out of the cheque. The issues are absolutely question of facts. The truth or falsity of the same cannot be gone into by this Court by invoking powers under Section 482 of the Code of Criminal Procedure. As such, no interference is made. Petitioner would be at liberty to take up all the points in course of trial.

With the aforesaid observations, CRR 650 of 2024 is disposed of.

Pending connected application, if any, is consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

(Tirthankar Ghosh, J.)

