

**07.05.2024**  
**Serial no. 91**  
[G.S.D]

**CRR 1891 of 2024**

**In the matter of : Sahadat Ali**

... ... Petitioner

Mr. Prosenjit Mukherjee  
Mr. A. K. Das  
Ms. Manisa Mondal

... for the petitioner

The petitioner is aggrieved by the continuance of CR Case No. 285 of 2021, wherein the Id. ACJM, Rampurhat was pleased to take cognizance of the offence on 31.3.21.

Ld. advocate submits that the complainant happens to be a partner. He is well aware of the SARFAESI Act proceedings and the dishonor of the cheque is on the ground of 'Account Blocked Situation Covered in 2125'.

Ld. advocate submits that the complainant was well aware regarding the bank account being blocked and in spite of the same presented the cheque being a partner.

There are other issues regarding the settlement of accounts as well as whether a criminal case can be instituted by a partner against another partner, which is canvassed by the Id. advocate appearing for the petitioner.

Having regard to the issues so canvassed and, primarily the present case being under section 138 of the

N.I. Act, I am of the opinion that the issues so canvassed are question of facts so far as the endorsement of the bank is concerned i.e. 'Account Blocked Situation Covered in 2125', the same would also be covered as a question of facts of this case, which until and unless the accused/petitioner is able to show that there were funds in the account and because of the account being blocked, the cheque could not be honoured.

The petitioner is thus granted liberty to take up and canvass all the issues in course of the trial of the case. The Id. Magistrate at the end of the trial would appreciate whether the provisions of section 138 of the NI Act can be invoked in the given set of circumstances of the present case and arrive at its independent findings.

With the aforesaid observations, CRR 1891 of 2024 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, 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.)**