**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CRLMC No.3026 of 2024**

***Sandip Mohanty*** .... ***Petitioner(s)***

Mr. A. K. Das, Advocate

*-versus-*

***State of Odisha and another*** .... ***Opposite Party(s)***

Mr. U. R. Jena, AGA

**CORAM: JUSTICE SIBO SANKAR MISHRA**

**ORDER**
**02.12.2024**

**Order No.**

**02.** 1. Heard.

2. The petitioner is an accused in I.C.C. Case No.34 of 2024 pending before the learned S.D.J.M., Puri for the alleged commission offence under Section 138 of the N.I. Act.

3. Vide impugned order dated 02.08.2023, learned S.D.J.M., Puri has taken cognizance of the offence punishable under Section 138 of the N.I. Act against the petitioner. The petitioner is aggrieved by the same. Hence, this petition.

4. Learned counsel for the petitioner has taken me to the reply to the statutory notice given by him and submitted that he has specifically taken the plea in the reply that his cheque book was lost somewhere enrouting from Chhaitana to his own house at Gop Kusupur, for which he has also filed a complaint before the Gop

Police Station vide complaint dated 02.10.2021.One of the signed cheque from the cheque book has been misused to foist this case on the petitioner. He further submitted that despite these facts, which is emanating from the record, the learned trial Court has not taken into consideration and went ahead to take cognizance of the offences. Hence, the cognizance order is bad in law.

5. I am not inclined to entertain the petition at this stage because the factum of issuance of cheque is somehow not denied by the petitioner in the specific terms. Hence, the presumption under Section 139 of the N.I. Act operates against him. Therefore, this aspect of the matter could only be threshed out in the trial being factual dispute, hence the petition does not deserve merit.

6. Accordingly, the CRLMC is dismissed. However, dismissal of the present petition shall not preclude the petitioner to raise all the points before the learned trial Court at appropriate stage.

***(S.S. Mishra)***
***Judge***

*Swarna*

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