

Mr. Apurba Kr. Dutta,
Mr. Syed Mosihar Rahman.
....for the petitioner.

Mr. Joy Chakraborty,
Mr. Sandip Dinda.
...for the OP.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is an accused in a proceeding under Section 138 of the Negotiable Instrument Act. The main grounds for challenge are that one, the petitioner has not issued any cheque to the complainant, and two, he did not receive the demand notice. The other ground is that the complainant stated at one place that he was an advocate and at another place that he was a businessman. A discharge application filed was rejected. A revisional application challenging such order was also rejected.

The points taken up by the petitioner are all disputed questions of fact, which can best be dealt with during trial. In fact, the prime contention of most of the accused that they are innocent is also essentially a question of fact, which cannot not be dealt with otherwise than in a trial.

I find no clinching ground for interfering with the proceeding.

Moreover, successive Courts have refused the petitioner's prayer for discharge on such grounds. I do not find any patent infirmity in the same either.

Therefore, the application for quashing of a proceeding under Section 138 of the Negotiable Instruments Act is dismissed, however, without any order as to costs.

This, however, shall not preclude the petitioner from taking up all

the points as available to him including the present ones during trial.

With these observations, the revisional application is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)