28.02.2025
tkm/ct 28
sl no.9

C.R.R. 4093 of 2024

In Re : An application under section 438/422 read with section 528 of Bharatiya Nagarik Suraksha Sanhita 2023

And

In Re : M/s. Lavasa .... petitioner

Mr. G C Mandal

...... for the petitioner

1. Petitioner prays for quashing of proceeding under section 138 of Negotiable Instrument Act. It is contended that he had entered into a development agreement with the complainant-opposite party. In terms of the development agreement cheques were handed over to the said complainant-opposite party. As per complainant the amount due and payable to the complainant-opposite party is Rs. 3,53,52,000/-. In part liquidation of the said liability three cheques totaling Rs. 1,26,76,000/- were presented for encashment but dishonoured.
2. Learned counsel argues entire property had not been sold out and the liability has not crystalised as yet.
3. Admittedly the cheques issued by the petitioner-accused had dishonoured on presentation. Notice of dishonour had also been issued. The condition precedent for attracting statutory presumption under section 139 of the NI Act is pleaded in the petition of complaint.
4. In these circumstances it is open to the petitioner to rebut he said presumption and establish that there is no legal debt or liability payable to the complainant. But in light of the averments in the complaint no case for interference is made out.
5. The magistrate is directed to dispose of the application for interim compensation at the earliest.
6. With this observation petition is disposed of.

(Joymalya Bagchi, J.)