

08.06.2026

Sl. No.10.

M/L.

Mithun.

Ct.No.29.

CRR/1271/2026

Baby Sen

Vs.

The State of West Bengal & Anr.

Mr. Subhrajyoti Dey,

Mr. Sushovon Dey,

Mr. Vaskar Saha

...for the petitioner

Mr. Sambhunath De,

Mr. Samrat Chakraborty

...for opposite party no.3

The opposite party no.1 instituted the proceeding under Section 138 of the N.I.Act against the present petitioner who is mother of one Pratik Kumar Sen.

The submission made on behalf of the petitioner is that said Pratik Kumar Sen had borrowed some money from the complainant and in discharge of the liability, mother of said Pratik Kumar Sen, i.e. the petitioner herein had drawn a cheque which has been dishonoured and gave rise to the instant proceeding. Petitioner's main contention is that since she has not taken any loan, therefore, the allegation of committing offence under Section 138 of the N.I.Act cannot be foisted upon her and she cannot be entangled with any criminal liability. Therefore, she prayed for quashment of the proceeding being Complaint Case No.395C/2024 presently pending before learned Additional Chief Judicial Magistrate, Kalyani.

Learned Counsel appearing on behalf of the opposite party/complainant submits that the order dated 2nd February, 2026 discloses that the petitioner herein has already filed an application challenging the maintainability of the criminal proceeding which is pending for disposal and the next date is fixed on 18.06.2026.

Having heard learned Counsel for the petitioner and the opposite party it is admitted position that after service of demand notice, the petitioner did not give any reply and it is also admitted position that petitioner is the drawer of the cheque. Under the N.I.Act, the law operates as the principle of a “reverse onus”. When the cheque is signed by the mother and it got dishonoured, the law presumes the cheque was issued to discharge a legal debt or liability. The criminal liability for a bounced cheque falls on the account holder, who signed it. The fact that mother did not take loan does not automatically give her any right to pray for quashment of the proceeding.

Accordingly, CRR 1271 of 2026 thus stands disposed of.

However this dismissal order will not prevent the petitioner to rebut the presumption before the trial Court during trial and Court below will dispose of the proceeding in accordance with law. I make it clear that I have not gone into the merits of the case.

Parties to act on a server copy of this order duly collected from the official website of the Hon’ble High Court, Calcutta.

(Dr. Ajoy Kumar Mukherjee, J.)

