

**29.06.2026**

Sl. No.39.

D/L.

Mithun.

Ct.No.29.

**CRR/2478/2026**

**Ujjal Bose**

**Vs.**

**The State of West Bengal & Anr.**

Mr. Asis Bhattacharyya,  
Mr. Soumajit Das

...for the petitioner

Supplementary affidavit by the petitioner is taken on record.

In this application the petitioner is aggrieved by the order dated 2<sup>nd</sup> June, 2026 by which the Court below has rejected the petitioner's prayer for joint trial of the proceeding initiated by the opposite party no.2 herein under Section 138 of the N.I.Act being No.CS-34 of 2023 and the Complaint Case filed under Sections 420/406 of the Indian Penal Code being CS 145779 of 2023, which are pending before the same Court.

Being aggrieved by the aforesaid order, learned Counsel for the petitioner submits that the opposite party no.2 filed both the above-mentioned cases which arises from the same agreement and also pertains to dishonour of same cheque. In CS 147578 of 2023, evidence before charge have already been completed and the matter is fixed for hearing of charge. Therefore, if both the cases are not heard simultaneously then the petitioner will have cause to prejudice as both the cases are interrelated and arising out of same transaction allegedly made through impugned cheque.

Having heard learned Counsel for the petitioner, it appears that one complaint case being CS 145779 of 2023 has been initiated under Sections 420/406 of IPC. The other cases being CS 34 of 2023 has been initiated under Section 138 of the N.I. Act.

Needless to say that in the prosecution under Section 138 of N.I. Act, the *means rea*, i.e. fraudulent or dishonest intention at the time of issuance of cheque is not required to be proved. However in case of offence under Section 420 of IPC, deception or fraudulent/dishonest intention from the inception is required to be proved. The offence punishable under Section 420 IPC is a serious one as the sentence of 7 years can be imposed. In the case of offence under Section 138 of N.I. Act, there is a legal presumption that the cheque has been issued for discharging the antecedent liability and that presumption can be rebutted only by the person who draws the cheque. Such a requirement is not there in the offence of cheating. The ingredients of offences in a case under Section 138 of N.I. Act and Section 420 of IPC are not same but different. In order to consider the prayer for joint trial, it is therefore necessary to analyse and compare not the allegations in the two complaints but the ingredients of the two offences and to see whether their identity is made out or not.

After giving careful consideration to the facts and circumstances of the case and submissions made by the petitioner's Counsel, it appears to me that since the ingredients of offence for which the petitioner has been implicated under Section 420 IPC are entirely different with the other offence lodged under

Section 138 of N.I.Act and two are distinct offences, therefore, the impugned order passed by the Court below dated 02.06.2026 by which, he has rejected the petitioner's prayer for joint trial of the said two proceedings does not suffer from any perversity or impropriety.

Therefore, CRR 2478 of 2026 stands dismissed.

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. )**