2026:AHC:208430

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 14065 of 2026

Om Brick Field Proprietor Sanjeev Kumar

.....Petitioner(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Petitioner(s) : Kuldeep Kumar
Counsel for Respondent(s) : Dilip Kumar Singh, G.A.

Court No. - 55

HON'BLE VIKRAM D. CHAUHAN, J.

1. Heard learned counsel for the petitioner, Sri Dilip Kumar Singh, learned counsel for respondent no. 2 and learned A.G.A. for the State.

2. The petition is filed with the following prayer:-

*"**I-** Issue a writ order or direction in the nature of set-aside the impugned order dated 20.08.2026 passed by Session Judge, District Meerut in Criminal Revision No. 202 of 2026 (Om Brick Field Vs. State of U.P. and Another) as well as impugned order dated 18.02.2026 passed by Additional Chief Judicial Magistrate, Court No. 1, District Meerut in Complaint Case No. 3637 of 2025 (Satish Tomar Vs. Om Brick Field), Under Section 138 N.I. Act, Police Station -Nauchandi, District Meerut. (Annexure No. 1 & 2 to the Misc. Petition)."*

3. Learned counsel for the petitioner submits that by order dated 18.2.2026 summons were issued to the petitioner under Section 138 of Negotiable Instruments Act. The aforesaid summoning order was challenged in the revision and revision has been rejected by order dated 20.8.2026. Learned counsel for the petitioner while relying upon page nos. 47 and 48 of the paper book submits that cheques in question were interpolated by complainant-respondent no. 2 and as a result of the interpolation the cheques itself were not maintainable. Learned

counsel for the petitioner in this respect has relied upon judgments of the Supreme Court passed in **Criminal Appeal No. 724 of 2025 (Rekha Sharad Ushir Vs. Saptashrungi Mahila Nagari Sahkari Patsansta Ltd.), decided on 26.3.2025** and in the case of **Rajasab Vs. Hulagappa [arising out of SLP (Crl.) No. 17025 of 2025], decided on 17.7.2026** and the judgment of the Kerala High Court passed in **Criminal Appeal No. 2535 of 2008 (Geemol Joseph Vs. Kousthabhan and Another), decided on 29.7.2019.** Learned counsel for the petitioner further submits that once the party has not come up with clean hands in view of the judgment of the Supreme Court passed in **Criminal Appeal No. 724 of 2025 (Rekha Sharad Ushir Vs. Saptashrungi Mahila Nagari Sahkari Patsansta Ltd.), decided on 26.3.2025**, the complainant is not entitled for any relief. Learned counsel for the petitioner further submits that petitioner and respondent no. 2-complainant were partners in a partnership firm and agreement was executed on 22.9.2023 by which the complainant was required to run the business. Thereafter compromise was also entered on 5.2.2025 in this respect. He further submits that in view of the aforesaid there was no occasion for issuance of cheques by the petitioner.

4. Learned counsel for the complainant-respondent no. 2 opposed the argument raised by learned counsel for the petitioner and submits that question of interpolation of cheques is a question of fact which is required to be considered at the stage of trial. Such argument cannot be permitted to be raised, more particularly, when the cheques in question have been dishonoured on the ground of insufficient funds and not on the ground that there was interpolation in the cheques. Learned counsel for the complainant-respondent no. 2 further submits that cheques in question were issued by the petitioner and the signature on the cheques have also not been disputed by the petitioner and as such at this stage the defence placed cannot be raised.

5. It is to be seen that in the present case petitioner has argued

that cheques in question were interpolated and cheques were of dated 14.3.2024, however, cheques have been interpolated by dated 14.3.2025. It is the case of the petitioner that cheques in question were interpolated. It is important to note that dishonour memo for reasons unknown has not been brought on record by the petitioner although fairly the dishonour memo should have been brought on record before this Court. When learned counsel for the petitioner was put to question that why dishonour memo has not been produced before this Court, learned counsel for the petitioner submits that he could not produce the dishonour memo before this Court. However, learned counsel for the complainant has produced the dishonour memo and memo shows that cheques in question were dishonoured on the ground of insufficient funds and not on the ground that there was material alteration in the cheques. Learned counsel for the petitioner could not explain such a situation although learned counsel for the petitioner has relied upon judgment of the Supreme Court in the case of **Rajasab (supra)** and of Kerala High Court in the case of **Geemol Joseph (supra)**. However, both these judgments relate to the issues after conviction and not at the stage of summoning.

6. Even otherwise, the question of interpolation of cheque is a question of fact in respect of which evidence has to be led by the parties. At the stage of summoning of the accused only prima facie case has to be seen, more particularly, when the cheque was not dishonoured on the ground of interpolation in the cheques. At this stage, such an issue cannot be raised. Such issues are required to be raised by the petitioner at the stage of trial. So far as argument of learned counsel for the petitioner is concerned, the question with regard to the agreement dated 22.9.2023 and compromise dated 5.2.2025 is concerned, it is an admitted fact that the aforesaid documents raised are not part of the records of the trial court at this stage. Although learned counsel for the petitioner has stated that in the revisional court the aforesaid ground has been raised, the aforesaid documents

being not part of the trial court record. The question of existence of agreement and its effect being the question of fact and the same is required to be raised by the petitioner at the stage of trial. This Court cannot on the basis of question of fact at this stage interfere in the summoning order as the cheques in question under the Negotiable Instruments Act carries presumption of consideration. Therefore, it is for the petitioner-accused to dispel the aforesaid consideration in the trial court proceedings.

7. Accordingly, this Court does not find any merit in the petition and is **dismissed.**

(Vikram D. Chauhan,J.)

October 6, 2026
VMA

Digitally signed by :-
VISHWA MOHAN ARORA
High Court of Judicature at Allahabad