

(2016) 06 SC CK 0037

In the Supreme Court Of India

Case No : Criminal Appeal No. 1774 of 2011.

Ashok Kumar Gupta

APPELLANT

Vs

State of U.P.and another.

RESPONDENT

Date of Decision : 17-06-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Negotiable Instruments Act, 1881 (NI) — Section 138

Citation : (2016) 3 ApexCourtJudgments(SC) 88 : (2016) 3 CriCC 798 : (2016) 3 Crimes 108

Hon'ble Judges : Adarsh Kumar Goel;L. Nageswara Rao, JJ.

Bench : Division Bench

Advocate : T.N. Saxena, H.C. Kharbanda, V.K. Singh, Yash Pal Dhingra, Advocates, for the Appellant; Ameet Singh, Ms. Alka Sinha, Anuvrat Sharma, Advocates, for the Respondent

Final Decision : Allowed

Judgement

1. This appeal arises out of the order dated 8th June, 2011 passed by the High Court of Judicature at Allahabad in CrI. Misc. Application No.18613 of 2011 whereby the High Court declined to quash the criminal proceedings against the appellant.

2. The criminal proceedings arise out of Criminal Complaint No.135 of 2011 filed in the Court of CJM, Hatras, Uttar Pradesh by the private respondent.

3. The case of the complainant - Respondent is that the appellant along with Arun Kumar, Accused No.2 was supplying books to the complainant. The complainant did not make the payment for the books on the ground that the books were not of proper standard. However, the appellant took away blank Cheque No.115668 drawn on Canara Bank, Main Branch, Hatras from the cheque book kept in the drawer of the table of the complainant and falsely entered the amount of Rs. 97,552/-.

4. The appellant sought quashing of the said complaint on the ground that the criminal complaint was a counterblast to the notice of dishonour of cheque upon which a summoning order had been passed and proceedings under Section 138 of the Negotiable Instruments Act, 1881 were initiated by the appellant. The appellant relied on notice of dishonour, a copy of the criminal complaint No.135 of 2010 filed on 16.10.2010 and order of the Court dated 4.11.2010. Reliance has been placed on the judgments of this Court in Eicher Tractor Ltd. and Ors. v. Harihar Singh and Anr. [(2008) 16 SCC 763], Mahindra and Mahindra Financial Services Ltd. v. Rajiv Dubey [(2009) 1 SCC 706] apart from Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque and Another [(2005) 1 SCC 122].
5. It is submitted that while it is true that in quashing proceedings, the Court could not go into disputed version, but in the present case, the proceedings are clear abuse of process of law.
6. On being asked, learned counsel for the State fairly stated that the complaint appeared to be absurd.
7. None has entered appearance on behalf of the complainant.
8. After hearing learned counsel for the parties and perusing the records, we are satisfied that the complaint filed by the complainant is clear abuse of the process of law.
9. Accordingly, we allow this appeal and quash the proceedings against the appellant.