
(2012) 02 RAJ CK 0002

In the Rajasthan High Court

Case No : SB Criminal Miscellaneous Petition No. 721/12

Bhagat Singh

APPELLANT

Vs

Jitendrer Singh @ Lala

RESPONDENT

Date of Decision : 29-02-2012

Acts Referred:

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

Citation : (2012) 02 RAJ CK 0002

Hon'ble Judges : M.C. Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mahesh Chandra Sharma

1. This petition has been filed u/s 482 Cr. P.C. against the order dated 15.2.2012 passed by the learned Sessions Judge, Bundi and the order dated 10.1.2012 passed by the learned Judicial Magistrate, No. 2, Bundi. Brief facts of the case are that the complainant respondent filed a complaint u/s 138 of the Negotiable Instrument Act stating therein that the petitioner took a loan of Rs. 6,32,000/- from the complainant on 1.5.2011 for which he had issued a cheque No. 891705 dated 1.6.2011. It was stated that the cheque was presented to the Punjab National Bank but the same was dishonored. It was further stated that thereafter notice was issued through Advocate which was duly served upon the petitioner on 3.9.2011.

2. It was also mentioned that the cheque amount has been typed out but the name of the complainant respondent has been written with ink.

3. The learned trial court took cognizance in the matter and issued summons to the petitioner. On 5.1.2012 the petitioner filed an application before the court requesting that the cheque in dispute should be sent to the Forensic Scientific Laboratory for the purpose of examination of the language as mentioned in the

cheque as well as the signatures.

4. It was also mentioned in the application that the petitioner had not taken any loan from the respondent but the petitioner used to go to the shop of the respondent and had left his cheque book to the shop of the respondent and the respondent complainant took out two cheques from the cheque book which were not bearing seal of the petitioner. The cheques were filled by the respondent wherein respondent inserted his own name and same was presented to the Bank. It was also mentioned that the petitioner was under an impression that cheques were lost but as a matter of fact the cheques were not lost and same were misused by the complainant respondent.

5. The petitioner has moved the application Annexure-3 before the learned trial court with the following prayer:

6. Thereafter, the learned Magistrate has passed the order on 10.1.2012. Against which, the petitioner has moved a revision petition before the learned Sessions Judge, Bundi which was dismissed vide order dated 15.2.2012 and the order dated 10.1.2012 was confirmed.

7. Learned counsel for the petitioner has contended that only the cheque was signed by the petitioner and except that he has done nothing.

8. Learned counsel has drawn attention of this Court towards a judgment of Hon"ble Apex Court in the case of "Kalyani Bhaskar Vs. M.S. Sampornam" reported in 2007 (1) Western Law Cases (SC) 239.

9. On the other hand, learned Public Prosecutor has drawn attention of this Court towards paras No. 5 and 6 of the order dated 15.2.2012 passed by the learned Sessions Judge which read as under:

10. I have heard learned counsel for the petitioner as well as learned Public Prosecutor and gone through the judgment of "Kalyani Bhaskar" (supra) and the orders impunged. In my view, the ratio decided in the case of "Kalyani Bhaskar" (supra) does not apply to the facts and circumstances of the present case.

11. In view of the above specifically the observation made in paras No. 5 and 6 of the learned Sessions Judge in its order dated 15.2.2012, I do not found any force in this petition.

12. Consequently, the petition is dismissed. Since the misc. petition itself has been dismissed, the stay application stands dismissed.