(2025) 06 UK CK 0560

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Application U/s 482 No. 2317 Of 2022

Enn Tee International Ltd. And Another — APPELLANT

Vs

State Of Uttarakhand And Another — RESPONDENT

Date of Decision : 26-06-2025

Acts Referred:

Negotiable Instruments Act, 1881 — Section 138, 141
Code Of Criminal Procedure, 1973 — Section 482

Citation : (2025) 06 UK CK 0560

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : Rachit Manglik, Munish Bhardwaj, S.S. Chauhan, Vikas Uniyal

Final Decision : Dismissed

Judgement

Pankaj Purohit, J

1. By means of the present C482 application, the applicants have challenged summoning/cognizance order dated 04.03.2021, passed by learned Judicial Magistrate First, Haridwar, in Complaint Case No.87 of 2020, Khanna Polymers Vs. Enn Tee International Ltd., for the offences punishable u/s 138 of the Negotiable Instruments Act, 1881, (hereinafter referred to as 'the Act'), along with the entire proceedings of the aforesaid criminal case.

2. The present C482 application was filed in the year 2022 and since then, even notice has not been issued to respondent No.2.

3. The facts in brief are that the trade of plastic granules was going on between the applicant's firm and the respondent No.2 since 2011, in which the respondent No.2 had been sending goods to the applicants-firm from time to time as per their orders and demands. Due to which, the applicants have an outstanding amount of Rs.64,45,931/-, in lieu of which, the applicants gave three cheques amounting to Rs.20,00,000/- each to respondent No.2, issued by the State Bank of Bikaner and Jaipur, Karol Bagh, New Delhi. When, he presented these cheques

in his Bank, these were returned to him with a remark 'Account Closed' on 21.11.2020. Aggrieved by the said act, respondent No.2 sent a Demand Notice through registered post demanding the aforesaid amount on 01.12.2020 to the applicants' address, but, despite service of notice, the applicants-firm did not return the due amount.

4. The aforesaid complaint filed by the respondent under Section 138 of the Act was registered as Criminal Case No. 87 of 2020, Khanna Polymers Vs. Enn Tee International Ltd., in the Court of learned Judicial Magistrate First, Haridwar and the applicants were summoned vide order dated 04.03.2021. Feeling aggrieved by the summoning order, applicants are before this Court.

5. Learned counsel for the applicants-firm submits that the applicants-firm specifically mentioned in the letter dated 09.02.2015, whereby the said cheques were enclosed, that these cheques were only for the security purposes and clearly instructed the respondent No.2 to not present the same into Bank without the consent of the applicants. He further submits that the said cheques were issued on 09.02.2015 in State Bank of Jaipur and Bikaner and account to which said cheques pertain, were closed way back on 22.06.2018, as the State Bank of Jaipur and Bikaner was merged into State Bank of India by Gazette Notification dated 22.02.2017 and the account holders of associate Banks will have get their cheque book replaced and apply for a fresh one, therefore, it is clear that the respondent No.2 had misused the said cheques.

6. Learned counsel for the applicant further submits that there is no payment due against the applicants-firm payable to respondent No.2 in any manner, therefore, the question of legal liability of applicants and commission of offence under Section 138 of the Act r/w Section 141 of the Act does not arise, since respondent No.2 is not the 'holder' of Cheques in-question in due course.

7. I have heard the learned counsel for the applicants and perused the documents available on record. This Court finds that the arguments made by the learned counsel for the applicants is a matter of evidence, which can only be looked into by the learned Trial Court at the time of trial when the evidence would be adduced by both the parties. Further the submission of the learned counsel for the applicants regarding the fact that the cheques in-question issued in State Bank of Jaipur and Bikaner were become invalid in the year 2018, as the State Bank of Jaipur and Bikaner, was merged into State Bank of India, appears to be highly preposterous and disastrous and the same could not be accepted by this Court. Thus, this Court under Section 482 of Cr.P.C. cannot embark upon a fact finding inquiry which can only be done by the learned Trial Court. Moreover, the notices were never issued to respondent No.2 in this C482 application by this Court since 2022; the impugned summoning order is of 04.03.2021, the trial must have been proceeded further. This Court does not wish to interfere now at this belated stage of trial invoking inherent powers of this court. This case does not fall in the 'rarest of rare' category for invoking the inherent powers of this Court.

8. Accordingly, the C482 application is dismissed.

9. Pending application(s), if any, stands disposed of.