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**(2011) 09 UK CK 0191**

**In the Uttarakhand High Court**

**Case No :** Criminal Miscellaneous Application (C482) No. 839 of 2011

Salabh Goyal

APPELLANT

Vs

State of Uttarakhand and Anjul Mehta

RESPONDENT

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**Date of Decision :** 23-09-2011

**Acts Referred:**

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

**Citation :** (2011) 09 UK CK 0191

**Hon'ble Judges :** Prafulla C. Pant, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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**Judgement**

Hon"ble Prafulla C. Pant, J.—Heard on restored petition.

2. By means of this petition, moved u/s 482 of Code of Criminal Procedure., the Petitioner has sought quashing of proceedings of criminal case No. 919 of 2010, Anjul Mehta v. Salabh Goyal, relating to offence punishable u/s 138 of Negotiable Instruments Act, 1881, pending in the court of Additional Chief Judicial Magistrate, Haridwar.

3. Learned Counsel for the Petitioner submitted that there was no liability on the Petitioner in respect of which the cheque in question was issued. In this connection, reference was made to the case of M/S Modi Cements Limited Vs. Shri Kuchil Kumar Nandi, and M.S. Narayana Menon @ Mani Vs. State of Kerala and Another, and it is pleaded that impugned proceedings of criminal case are liable to be quashed.

4. On the other hand on behalf of the Respondent No. 2 Anjul Mehta (complainant), it is contended that the Petitioner knowingly committed cheating by issuing a cheque to him, without there being sufficient funds in the account. It is also contended that due notice was given to the Petitioner and still he failed to pay the amount to the complainant. Attention of this Court is also drawn to the

fact that the complainant who stood guarantor and mortgaged his property for the cash credit limit availed by the Petitioner and his wife. The complainant has become victim of cheating at the hands of the Petitioner.

5. In the above circumstances, this Court is not inclined to interfere with the impugned trial of the case for two reasons. Firstly, factual disputes cannot be examined by this Court u/s 482 of Code of Criminal Procedure. Secondly, Section 482 of Code of Criminal Procedure. is meant for issuing directions/orders for the ends of justice, and in the present case, if the impugned proceedings are stayed, it would not serve the ends of justice, rather it will do other way round.

6. Therefore, petition u/s 482 of Code of Criminal Procedure., is dismissed summarily without expressing any opinion, as to final merits of the case pending before the trial court.