

(2016) 07 RAJ CK 0160

In the Rajasthan High Court

Case No : Criminal Misc. Petition No. 857 of 2016

Sushil Kumar Mathur

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 04-07-2016

Acts Referred:

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

Citation : (2017) ACD 519 : (2017) 1 NIJ 386

Hon'ble Judges : Mr. P.K. Lohra, J.

Bench : Single Bench

Advocate : Mr. Pankaj Gupta, Advocate, for the Petitioner; Mr. Vikram Singh Rajpurohit, Public Prosecutor, for the State

Final Decision : Dismissed

Judgement

Mr. P.K. Lohra, J.—Imploring annulment of the impugned order dated 3rd of February 2016, passed by Sessions Judge, Bikaner (for short, "learned revisional Court"), whereby learned revisional Court has partly upheld the order dated 16th of January 2016, passed by Special Judicial Magistrate (NIT Act Cases) No.3, Bikaner (for short, "learned trial Court"), reading out substance of accusation to the accused petitioner for offence under Section 138 of the Negotiable Instruments Act, 1881 (for short, "Act").

2. The facts apposite for the purpose of this petition are that the second respondent complainant filed a criminal complaint against petitioner under Section 138 of the Act before the learned trial Court inter-alia on the ground that it is involved in social services having status of a society and the society advanced loan worth Rs.50,000/- to the petitioner by issuing Cheque No.128245 dated 17th of February 2002. The petitioner in order to repay the aforesaid loan amount issued two cheques to the second respondent Society bearing Nos. 053943 dated 10th of July 2012 and 053944 dated 10th of August 2012 respectively. It is also averred in the complaint that each cheque was worth

Rs.25,000/- and when both the cheques were presented for encashment by complainant, the Bank declined to honour the same due to insufficiency of fund in the account of the petitioner. Thereafter, petitioner sent a joint notice for both the cheques but the amount was not paid by the petitioner and that necessitated filing of the complaint. The learned trial Court, after taking cognizance against the petitioner for offence under Section 138 of the Act, by order dated 16th of January 2016 read out substance of accusation to the accused-petitioner. Being aggrieved by the said order, the petitioner approached the revisional Court and the revisional Court while considering the provisions of Section 142 of the Act, set aside the impugned order of learned trial Court dated 16th of January 2016 to the extent of cheque No.053943 dated 10th of July 2012 but maintained the same vis-a-vis Cheque No.53944 dated 10th of August 2012. The learned revisional Court found that as per Section 142 of the Act, time has expired for taking cognizance for offence under Section 138 of the Act vis-a-vis Cheque No.053943 dated 10th of July, 2012.

3. I have heard learned counsel for the petitioner and perused the impugned order passed by learned revisional Court.

4. Upon perusal of the impugned order, in my opinion, the learned revisional Court has not committed any error which can be construed as an abuse of process of the Court. The learned revisional Court has taken note of the fact that cognizance vis-a-vis Cheque dated 10th of July 2012 is barred by limitation under Section 142 of the Act and therefore it has set aside the order of the trial Court to that extent. In totality, the learned revisional Court has acted in accordance with law and consequently the same has not resulted in miscarriage of justice warranting interference in exercise of inherent powers of this Court.

5. Resultantly, the petition fails and the same is hereby dismissed summarily.