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MCRC-48889-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

ON THE 29th OF OCTOBER, 2025MISC. CRIMINAL CASE No. 48889 of 2025*RAMPRAKASH SHARMA**Versus**RAGHVENDRA SINGH BHADORIYA*

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Appearance:

None for the petitioner.
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ORDER

The present petition under Article 482 of CrPC has been filed by the petitioner seeking following reliefs:

"अतः माननीय न्यायालय से विनम्र प्रार्थना है कि, प्रार्थी की ओर से प्रस्तुत याचिका स्वीकार की जाकर विद्वान विचारण न्यायालय द्वारा पारित आदेश दिनांक-10-11-2021 एवं पुनरीक्षण न्यायालय द्वारा पारित आदेश दिनांक-27-08-2024 को अपास्त किया जाकर अनावेदक द्वारा विचारण न्यायालय के समक्ष प्रस्तुत प्रकरण क्रमांक-973 /2010 एस.सी.एन.आई.एक्ट को निरस्त किये जाने की आज्ञा पारित करने की कृपा करें।"

Short facts of the case are that the petitioner Ramprakash, submitted an application dated 25.09.2021 before the learned Magistrate, Bhind, to the effect that the respondent/complainant, Raghvendra Singh Bhadoria, had filed a complaint against the revisionist/accused Ramprakash under Section 138 of the Negotiable Instruments Act in connection with the amount



mentioned in Cheque No.3031 dated 22.03.2008 and Cheque No. 3032 dated 15.12.2007, amounting to Rs. 1 Lac. Cheque No.3031 bears the date 22.03.2008, whereas the advocate's notice states that the information was given on 12.07.2010, which means the notice was issued 29 months later. In paragraph 2 of the notice sent by the advocate, it was mentioned that Cheque No.3032, dated 07.03.2008, was returned with the remark "insufficient funds." However, in the complaint, the date of presentation of this cheque is recorded as 26.07.2010. The complainant, in the complaint, affidavit, and advocate's notice, had not provided any valid or sufficient reason for the delay of 02 years and 05 months in filing the complaint. Furthermore, neither the complaint nor the notice mentions on which dates the complainant presented the said cheques to the bank for payment. By concealing the true facts and using ambiguous language before the then presiding officer, the complainant managed to get the complaint registered under Section 138 of the Negotiable Instruments Act.

The complainant/respondent, Raghvendra Singh, submitted a reply to the said application stating that the complaint was not filed with delay. Instead, Cheque No.3032 dated 07.03.2008 and Cheque No.3031 dated 26.03.2008 were dishonoured by the bank, but were not returned to the complainant and were lost by the bank. In this regard, the complainant lodged a complaint before the Consumer Forum, and upon disposal of the complaint by the Consumer Forum on 31.03.2010, the bank, through a letter dated 23.06.2010, sent the cheques in a sealed envelope to the complainant on 07.07.2010. Subsequently, through his advocate, the complainant issued a



registered notice to the accused on 12.07.2010. Under these circumstances, the complainant sent the notice within the prescribed time period after receiving the cheques on 07.07.2010.

After hearing the arguments of both the parties on the said application, the learned Magistrate, vide the impugned order dated 10.11.2021, rejected the application dated 25.09.2021. Being dissatisfied with the aforesaid order, the petitioner had preferred a criminal revision before the Fourth Additional Sessions, Judge Bhind which was also dismissed vide order dated 27.08.2024. Hence, the present petition.

Upon examination of the record and the impugned order, this Court finds that the petitioner had filed an application before the trial court seeking dismissal of the complaint on the ground that it was not filed within the prescribed limitation period and the complainant had filed the complaint on 26.07.2010 concerning Cheque No. 3031 dated 22.03.2008 and Cheque No. 3032 dated 15.12.2007. The trial court, after taking cognizance of the complaint on 16.08.2010, registered the offence under Section 138 of the Negotiable Instruments Act and issued notice for the appearance of the accused.

On behalf of the petitioner, it was averred that the complainant filed the complaint after a delay of 29 months, as the cheques were dishonoured on 07.03.2008 and 26.03.2008, and no application for condonation of delay was filed. Therefore, it was averred that no offence is made out against the petitioner. However, regarding the benefit of this, it is relevant to refer to clause (b) of the proviso to Section 138 of the Negotiable Instruments Act,



which states that the payee or the holder in due course of the cheque shall, within thirty days from the date of receipt of information from the bank regarding the return of the cheque unpaid, give a written notice to the drawer of the cheque demanding payment of the cheque amount.

In the present case, documentary evidence, including the Central Bank's letter dated 23.06.2010 and the envelope dated 07.07.2010, clearly establishes that the complainant received notice of dishonour only on 07.07.2010. The statutory notice was issued on 12.07.2010, and the complaint was filed on 26.07.2010 both within the permissible period as contemplated under the Act.

Thus, it is evident that the complainant received information regarding the dishonour of the cheques on 07.07.2010, and thereafter, he issued a notice within thirty days and filed the complaint within the prescribed period. Hence, the trial court's order dated 10.11.2021 rejecting the application filed by the petitioner which was affirmed by the revisional Court vide order dated 27.08.2024 cannot be considered illegal, incorrect, or unreasonable, and therefore, no interference is warranted. Accordingly, the petition stands **dismissed**. The orders dated 10.11.2021 and 27.08.2024 are hereby affirmed.

No order as to costs.

(MILIND RAMESH PHADKE)
JUDGE