

IN THE COURT OF THE SUB-DIVISIONAL JUDICIAL MAGISTRATE,
BHUBANESWAR.

PRESENT:

Sri D.R. Sahoo, L.L.M.

S.D.J.M, Bhubaneswar.

1CC Case No-1070/2013

Trial No-2991/2014

**HDFC Bank Ltd. 26 A Narayan Properties Chandi Villa, Off
Saki Vihar Road, Sakinaka, Andheri (East), Mubai-400072
Having Branch office at A/62/1, Unit-8, Nayapalli,
Bhubaneswar, Represented through its Power of Attorney
Holder Mr. Subrat Ranjan Khatua, aged about 32 years S/o.
Natarbar Khatua A/p- working as Asst. Manager Legal at
HDFC Bank Ltd. A/62/1, Unit-8, Nayapalli, Bhubaneswar**

.....Complainant

Versus

**Hari Mahakud, Ram Nagar, 1st Lane,
Kamapalli, Ganjam Clum, Berhmapur**

.....Accused

Offence under Section 138 of N.I. Act

Counsel for the Prosecution: Sri D.P. Tripathy and Associates.

Counsel for the defence: Sri P.K. Majhi and Associates.

Date of argument: 26 .11.2014

Date of Judgment: 27 .11.2014

J U D G M E N T

The above named accused stands prosecuted for committing
offence punishable U/s. 138 of the N.I Act.

2. The case of the complainant in short is as follows:

The complaint is a registered company Incorporated under the Company Act-1956, represented through its Power of Attorney Holder Mr. Subrat Ranjan Khatua. After agreement with the complainant, the accused had taken a loan from the complainant's bank. Subsequently to discharge his legal liability, the accused issued 3 no of cheques bearing No.307853 on dtd.05.09.12, cheque bearing no.307854 on dtd05.10.12 and cheuqe bearing no.307855 on dtd. 05.11.12 total amounting of

Rs 32,763/-(Rupees thirty two thousand seven hundred sixty three) only to the complainant's bank. But the said cheque was dishonoured and returned unpaid due to "Funds Insufficient" and the complainant issued demand notice to the accused within the stipulated period of time but the accused did not respond for which the complainant has filed this case against the accused. The accused has appeared and has faced the trial. Hence this trial.

3. The plea of the defence is of complete denial and false implication.

4. The sole point for determination in this case is as follows:-

Whether the accused has issued 3 no of cheques bearing No.307853 on dtd.05.09.12, cheque bearing no.307854 on dtd05.10.12 and cheuqe bearing no.307855 on dtd. 05.11.12 total amounting of Rs 32,763/-(Rupees thirty two thousand seven hundred sixty three only to discharge his legal liability and did not pay the cheque amount even after receipt of the demand notice and thereby committed the offence punishable U/s. 138 of NI Act?

5. In order to prove his case, the complainant only examined himself as P.W.1. On the other hand, the accused has examined none.

6. In his evidence the complainant (P.W.1) has admitted that he is the authorized person on behalf of the company and the company has already received the cheque amount and he does not want to proceed with this case against the accused. Hence, in the considered opinion of this Court, there is no material on record to hold that the complainant has proved his case beyond all reasonable doubt.

7. In the result, the accused is found not guilty of the offence punishable U/s. 138 of NI Act and he is acquitted there from as per the provision u/s.255 (1) Cr.P.C. He be set at liberty forthwith.

Enter the case as a mistake of fact.

S.D.J.M., Bhubaneswar.

Typed to my dictation, corrected by me and pronounced the judgment in the open Court today given under my hand and seal this the ²⁷day of November, 2014.

S.D.J.M., Bhubaneswar.

List of witnesses examined on behalf of the prosecution:

P.W. 1: Subrat Ranjan Khatua.

List of witnesses examined on behalf of the defence:

None

List of Exts. marked on behalf of the Complainant:

Nil.

List of Exts. marked on behalf of the Defence

Nil

S.D.J.M., Bhubaneswar.