

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-2994/2013**

**Trial No-2990/2014**

**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**

**Raghuveer Madhu, S/o. Madhu Venkata Rao,  
Plot No.401, Sanjana Enclave, GA Plot No  
Sailashree Vihar, Bhubaneswar-751024**

**.....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: 28 .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 cheque bearing No.2977 on dtd.20.03.13 amounting of Rs 18771/-(Rupees eighteen thousand seven hundred seventy one) 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 issued cheque bearing No.2977 on dtd.21.03.13 amounting of Rs 18771/-(Rupees eighteen thousand seven hundred seventy one) 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 28<sup>th</sup> day 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.