

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-1798/2014
Trial No- 1849/2014

**M/s. Maruti Distributor, Represented through its partner,
Mukesh Agarwal, aged about 36 years, S/o. Late Debakinadan
Agarwal, SCR-B/8, Indradhanu Market, Nayapalli, Bhubaneswar,
Dist- Khurda, P.S. Nayapalli. Complainant**
Versus

**K. Ashok Kumar Patro, Proprietor of M/s. Ganesh Traders, Old
Market Street, Bhanjanagar-761126**

.....Accused

Offence under Section 138 of N.I. Act

Counsel for the Prosecution: Sri S. Das and Associates.

Counsel for the defence: Sri M.S. Mohapatra and Associates.

Date of argument: 16.09.2014

Date of Judgment: 18.09.2014

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 accused had purchased Cosmetic and Marvel Tea, Navadurga Agarbati and other products from the complainant's firm on credit basis for his business purpose. Towards discharge his legal liability the accused issued a cheque bearing No.333123 dtd. 23.04.2014 of Rs 66, 013/- (Rupees sixty six thousand thirteen) only

in favour of the complainant. Subsequently, the said cheque was returned unpaid due to “ exceed arrangements” 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 the cheque bearing No.333123 dtd. 23.04.2014 of Rs 66, 013/- (Rupees sixty six thousand thirteen) only to discharge his 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, accused has examined none.

6. In his evidence the complainant (P.W.1) has admitted that he is the authorized person of M/s. Maruti Distributor. He has already received the cheque amount and does not want to proceed with this case, in the considered opinion of this Court, there is no materials on record to hold that the complainant has failed to prove 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 18th day of September, 2014.

S.D.J.M., Bhubaneswar.

List of witnesses examined on behalf of the prosecution:

P.W. 1: Mukesh Agarrwal.

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.