

[2022 LiveLaw \(SC\) 223](#)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
N.V. RAMANA, CJI; A.S. BOPANNA, J; HIMA KOHLI, J.
FEBRUARY 18, 2022

CRIMINAL APPEAL No.289 OF 2022
(Arising out of SLP(Crl.)No.132 of 2019)

VIKRAM SINGH *Versus* **SHYOJI RAM**

Negotiable Instruments Act, 1881, Section 138 - It is surprising that on the one hand, the bank managers have specifically deposed that no such bank account was opened and maintained in their bank while on the other hand the cheque drawn by the respondent in favour of the appellant, was returned with the remark "account frozen" in respect of the same cheque. The bank account has been mentioned on the cheque and the endorsement to the effect "Account Frozen" will presuppose that an account existed".

For Petitioner(s) Mr. Sarad Kr. Singhania, Adv. Ms. Rashmi Singhania, AOR

For Respondent(s) Mr. Namit Saxena, Adv. Ms. Taruna Ardhendumauli Prasad, AOR

ORDER

The Court is convened through Video Conferencing.

Leave granted.

The instant appeal, by way of special leave, is directed against order dated 20.03.2018 passed by the High Court of Judicature for Rajasthan at Jaipur in S.B.Criminal Writ Petition No.242 of 2018 whereby the High Court allowed the writ petition preferred by the respondent and quashed and set aside the proceedings in Case No.3091 of 2013.

Heard learned counsel appearing on behalf of the appellant as also the learned counsel appearing on behalf of the respondent and carefully perused the material placed on record.

Learned counsel for the respondent vehemently contends that there is no reason to continue the trial as the appellant has not made out a case under Section 138 of the Negotiable Instruments Act, 1881 against his client. Learned counsel for the respondent further submits that the Bank Managers (DW2 and DW3) have specifically deposed that no such bank account was opened and maintained in their bank.

On the other hand, learned counsel for the appellant pointed out Annexure P-2 which is the dishonoured cheque and return memo where it has been endorsed as "ACCOUNT FROZEN".

After perusing Annexure P-2, it is surprising that on the one hand, the Bank

Managers have specifically deposed that no such bank account was opened and maintained in their bank while on the other hand the cheque drawn by the respondent in favour of the appellant, was returned with the remark “Account Frozen” in respect of the same cheque. The bank account has been mentioned on the cheque and the endorsement to the effect “Account Frozen” will presuppose that an account existed. This is a matter which is to be taken into consideration by the trial court in detail, and not merely on the evidence of DW2 and 3. The parties will have to go through a full-fledged trial. In any event, it was not a matter the proceedings could have been quashed.

We, accordingly, feel it was premature to quash the complaint filed by the appellant herein, by the High Court. The impugned order passed by the High Court is, accordingly, set aside.

We direct the trial court to restore and take up the matter in Case No.3091/2013 and conclude the same in accordance with law expeditiously and preferably within a period of six months from the date of receipt/production of a copy of this order.

The respondent is at liberty to raise all the pleas before the trial court.

The appeal stands disposed of accordingly.

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