

GAHC010009642011



2026:GAU-AS:2832

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Rev.P./444/2011

RAJA KHAN
S/O LT. BULLU KHAN R/O HOUSE NO. 36, APCC ROAD, NEAR FLY OVER,
GHY-3.

VERSUS

PRAFULLA CH. BHUYAN and ANR.
PERMANENT RESIDENT AT NO.2 MATHGARIA, VIDALAYA PATH P.S.
NOONMATI, GHY-20, KAMRUP, ASSAM, OFFICE ADDRESS - CHANDMARI
FLY OVER U-TUM OPP. ALL INDIA ROADIO GATE, CHANDMARI GHY-3,
GROUND FLOOR HERO HONDA ROMM SIDE.

2:STATE OF ASSAM

Advocate for the Petitioner : MS.S K NARGIS, MR.H R A CHOUDHURY,MR.I A
HAZARIKA,MS.S KHANIKAR

Advocate for the Respondent : MR B ACHARYYA, MR.S C CHAKRABORTY,MR.M
MALAKAR,MR.H A SARKAR,MR.S BHATTACHARJEE,MR.S R BHATTACHARJEE,PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE RAJESH MAZUMDAR

ORDER

Date : 24.02.2026

1. Heard Mr. A. Choudhury, learned counsel appearing on behalf of Ms. S.K. Nargis,
for the petitioner.

2. None appears for the respondent on call.
3. Matter has been pending before this Court since the year 2011.
4. The grievance of the petitioner in this Criminal Revision Petition is the order dated 29.08.2011, passed by the learned JMFC, Guwahati, wherein it was held as follows;

“From the above account it is clear that two demand notice dated 30/12/08 and 20/02/09, were issued upon the accused by the complainant through his Counsel, intimating him about the dishonor of the cheque and demanding the accused to pay the dishonored amount. Hon'ble Supreme Court in the case of Krishna Export and Others VsRaju Das reported in (2004) 13 SCC 498 and case of SadanandanBhadranVsMadhavan Sunil Kumar reported in (1998) 6 SCC 514 have decided that cause of action to file complaint on non payment despite issue of the notice arise but once and another cause of action would not arise on repeated dishonor. The complaint under Section 142(b) has to be filed within one month from the day immediately following the day on which the period of 15 days from the date of receipt of the first notice by the drawer expires.

On going through the copy of letterdated 12/01/09 alleged to have been written by accused upon receiving the demand notice dated 30/12/08, which is filed as a document with the complaint it is found that it mentions that said demand notice was received by the accused on 04/01/09. Keeping said date of receipt in view, even for argument sake if the date of receiving the demand notice is taken to be 12/01/09 i.e., the date of reply letter sent by the accused, the period of 15 days would have expired on 27/01/09 and cause of action to file the complaint within one month would commence from thereafter. On computing the period of one month, instant case being filed on 02/03/09 is found to have been filed beyond the period of limitation as provided for under Section 142(b) of the Negotiable Instrument Act. Complainant has neither assigned any reason for delay in filing the complaint nor prayed to condone the same. Moreover, complainant has filed this case averting the period of limitation to reckon from issuance of second demand notice.

Summarizing the above discussion, I am of the humble opinion that the complaint case filed is barred by limitation and hence not maintainable.

Accordingly this case is dismissed on contest.”

5. The learned counsel for the petitioner has submitted that the fact situation in the

case of Krishna Export and Others and SadhananBhadran vs. Others reported in (2008) 5 SCC 258 were different from the present case, inasmuch as, in the two cases referred by the learned JMFC, no action has been initiated after the first cheque bounced and no notice has been given to the issuer of the cheque.

6. The learned counsel for the petitioner has drawn our attention to the case of **Kamlesh Kumar vs. State of Bihar & Another**, reported in (2014) 2 SCC 424, to impress that once appropriate steps has been taken by issuing legal notice at the first time when the cheque bounced, and if the cheque is presented again at the request of the issuer of the cheque, a second cause of action would arise in favor of the holder of the cheque.
7. I have gone through the judgments referred in the order of the learned JMFC and the orders passed in **Kamlesh Kumar vs. State of Bihar & Another reported in (2014) 2 SCC 424**, the Court is of the view that the facts in the present case are more similar to the facts of KamleshKumar(supra) rather than the facts of Krishnan Export & Others and SadhananBhadran (supra) referred to by the learned JMFC in the order dated 29.08.2011.
8. In such view of the matter the order dated 29.08.2011 passed by the learned JMFC in complaint Case No. 797^c of 2009, under Section 138 of the Negotiation Instrument Act is interfered with, the matter is remanded back to the learned Trial Court to take fresh decision on the issue in view of the observation made hereinabove.
9. The learned JMFC shall issue notice to the opposite party before taking a view in the matter.
10. Criminal Revision Petition accordingly disposed of.

JUDGE

Comparing Assistant