

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No.6260/2019

Salim Khan S/o Abdul Salam, Aged About 43 Years, R/o Salim Auto Repairing, A-5, Behind Vaishnav Bhojnalaya, Opposite Chameli Market, M.i. Road, Jaipur, Raj.

-----Petitioner

Versus

1. State Of Rajasthan, Through Pp.
2. Shokat Khan S/o Hazi Ilahi Baksh Khan, aged adult, R/o 235, Jalupura, Jaipur, Raj.

-----Respondents

For Petitioner(s) : None present

For Respondent(s) : Mr. Jitendra Singh Rathore, PP

JUSTICE ANOOP KUMAR DHAND

Order

29/04/2026

1. By way of filing the instant criminal misc. petition, a challenge has been led to the impugned order dated 09.01.2019. passed by the court of Special Metropolitan Magistrate (NI Act Cases) No.2, Jaipur Metropolitan by which the application submitted by the petitioner under Section 91 Cr.P.C. has been rejected.

2. Perusal of the record indicates that the petitioner is facing trial for the offence under Section 138 of the Negotiable Instruments Act, 1881 (for short "the Act of 1881") on a complaint submitted by the complainant-respondent. During pendency of the trial, an application was submitted by the petitioner under Section 91 Cr.P.C. with the prayer for summoning the Income Tax Returns and bank statements of the respondent-complainant to show that

the amount in dispute was withdrawn by the complainant-respondent from his bank account and paid to the petitioner.

3. In the considered opinion of this Court, if a cheque bears the signature of its drawer, then there is a presumption that the same has been issued by him. Whether the complainant-respondent had the disputed amount in his bank account or not or whether the same is reflected in his Income Tax Returns or not. The Income Tax Returns or bank statements are not required to be seen for this purpose. The burden lies upon the accused to prove whether the cheque in question was issued by him or whether a cheque was issued for re-payment of due amount or not.

4. This Court finds no error in the impugned order passed by the court below, which warrants any interference of this Court.

5. Accordingly, the instant criminal misc. petition is liable to be and is hereby rejected. Stay application as well as all pending applications, if any, stand disposed of.

(ANOOP KUMAR DHAND),J