

High Court in Criminal Petition No. 1391 of 2010 whereby the High Court allowed the Petition under Section 482 Cr.P.C. and quashed the proceedings against the respondent herein in C.C. No. 26918 of 2006.

3. Despite service of notice, none is present on behalf of the respondent.

4. We have heard learned counsel appearing for the appellant and gone through the appeal.

5. In our view, the learned Judge seems to have allowed the petition on the ground that the averments made in the complaint do not constitute ingredients of offence complained of. Learned Judge had also observed that the cheque in question was issued by the accused to the complainant for doing the work and not in discharge of any existing legally enforceable debt payable by the accused to the complainant.

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5. We feel that the High Court was not correct in holding that there was no proper averments in the complaint as to the existence of legally enforceable debt payable by the accused to the complainant. At any rate, this was a question which could have been gone into only after leading of the evidence.

6. In that view, we set-aside the impugned order and dismiss the petition under Section 482 Cr.P.C. and direct the trial court to proceed against the respondent.

7. This Appeal is allowed accordingly.

.....J.
[V.S. SIRPURKAR]

.....J.
[T.S. THAKUR]