

(2018) 02 CHH CK 0255

Chhattisgarh High Court

Case No: Criminal Revision No.468 Of 2010

Subhash Singh

APPELLANT

Vs

Mahindra Tractors Agency And
Ors

RESPONDENT

Date of Decision: Feb. 15, 2018

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 91
- Negotiable Instruments Act, 1881 - Section 138

Hon'ble Judges: Arvind Singh Chandel, J

Bench: Single Bench

Advocate: Arvind Shrivastava, Adil Minhaj

Final Decision: Allowed

Judgement

Arvind Singh Chandel, J

1. With the consent of Learned Counsel appearing for the parties, the revision is heard finally.

2. This revision has been preferred by the Applicant/accused against the order dated 21.7.2010 passed by the 3 rd Additional Sessions Judge (FTC),

Raigarh in Criminal Revision No.151 of 2009 by which the Learned Additional Sessions Judge has allowed the revision preferred against the order

dated 3.10.2009 passed by the Judicial Magistrate First Class, Raigarh in Criminal Case No.111 of 2007 partly allowing the application under Section

91 of the Code of Criminal Procedure in favour of the Applicant/accused and directing the Respondents herein to submit a copy of the computerised

sheet in the Court.

3. The Complainants/Respondents admittedly run a business of selling tractor-trolley and other articles. As per the complaint averment, the Applicant/accused purchased a tractor-trolley and other articles from the Complainants whose payment of Rs.5,50,400/- was due to be paid by him to the Complainants. He paid a sum of Rs.4,00,000/- against the due amount of purchase and for remaining sum of Rs.1,50,400/- he issued a cheque in favour of the Complainants amounting to Rs.1,68,369/- including 2% monthly interest on the aforesaid remaining sum. When the cheque was presented in the Bank on 21.4.2006, it was dishonoured due to insufficient funds in the account of the Applicant/accused. Consequently, after issuing a statutory notice to the Applicant/accused, the Complainants filed a case under Section 138 of the Negotiable Instruments Act. It was the defence of the Applicant/accused that no amount was due to be paid by him to the Complainants.

4. During cross-examination, Complainant/Respondent Ajay Kumar Agarwal has admitted that he has maintained the account with regard to the sale of tractors-trolley etc. He has also admitted that he had filed a return with the sales-tax department mentioning the transaction regarding the sale of the tractor-trolley to the Applicant/accused.

5. In view of the above admission of Respondent/Complainant Ajay Kumar Agarwal, the Applicant/accused filed an application under Section 91 of the Code of Criminal Procedure for production of the account maintained by the Complainants pertaining to their business transaction for which the said cheque was said to have been issued by the Applicant/accused, as the same would be necessary for just and proper decision of the case. The Judicial Magistrate First Class, vide order dated 3.10.2009, partly allowed the application of the Applicant/accused and directed the Complainants/Respondents herein that they shall submit in the Court a copy of the computerised sheet of the transactions done by them for sale of tractor-trolley to the Applicant/accused.

6. While deciding the revision preferred by the Complainants/Respondents, the Learned Additional Sessions Judge allowed the revision and dismissed the order of the Judicial Magistrate First Class dated 3.10.2009. Hence, this revision.

7. There is no dispute between the parties that the Respondents/Complainants had sold a tractor-trolley to the Applicant/accused.

Respondent/Complainant Ajay Kumar Agarwal has categorically admitted in his cross-examination in paragraph 6 that he files returns regarding the

transactions of purchase and sale in the sales-tax department regularly and since the said transactions are entered in a computer and the same being

computerised, no separate register is manually maintained by him. It was the defence of the Applicant/accused that no amount was due to be paid by

him to the Complainants for the transaction in question. In these circumstances, as admitted by Complainant Ajay Kumar Agarwal, if they have a

computerised statement/detail of the transaction in question, presentation of the same before the Court would not harm their case and the same would

be helpful for just and proper decision of the case.

8. Thus, the impugned order dated 21.7.2010 passed by the Additional Sessions Judge, in my considered opinion, suffers from material illegality and,

therefore, the same is set aside and the order dated 3.10.2009 passed by the Judicial Magistrate First Class is affirmed. In the result, the instant

revision is allowed.