

**Criminal Revision**

Present: **The Hon'ble Justice Ashim Kumar Roy**

*C.R.R. No. 3709 of 2009*

*With*

*CRAN No. 420 of 2010*

**Judgment On: 07-04-2010.**

*M/s. Nexgen Material Handling System Pvt. Ltd. & Anr*

*versus*

*State of West Bengal & Ors*

**POINTS:**

QUASHING-The payee of the cheque M/s. L. N. International is a proprietorship concern-In the complaint petition the proprietorship concern has been described as L. N. Enterprise instead of L. N. International-Proceeding whether be quashed- Negotiable Instruments Act, 1881 S.138

**FACTS:**

The petitioner has approached the Court for quashing of a complaint case relating to an offence punishable under Section 138 of the Negotiable Instruments Act on the ground that although the notice under Section 138 of the Negotiable Instruments Act was issued on behalf of the L.N. International, the payee of the cheque, but the complaint has been filed by the L.N. Enterprise. Such contention of the petitioner has been strenuously disputed by the learned Counsel of the opposite party. According to him that by a bona fide mistake in stead of L.N. International it was typed L.N. Enterprise as the complainant although there was no mistake in the name of proprietress or the address.

**HELD:**

The payee of the cheque M/s. L. N. International is a proprietorship concern. It is true that in the complaint petition the proprietorship concern has been described as L. N. Enterprise instead of L. N. International. However, there is no dispute as regards to the proprietress as well as the other description of the said concern, viz., its address and other things. The mistake crept in the petition of complaint is purely a bona fide mistake and due to such mistake the impugned complaint which is otherwise in accordance with law cannot be quashed. Para-2

For Petitioners :      Mr. Kinjal Kumar Boral  
                                 Mr. Purnendu Das  
                                 Mr. Souvik Maji

**THE COURT:**

1. The petitioner who has been arrayed as an accused in connection with a complaint case relating to an offence punishable under Section 138 of the Negotiable Instruments Act, has approached this Court for quashing of the same on the ground, although the notice under Section 138 of the Negotiable Instruments Act was issued on behalf of the L.N. International, the payee of the cheque but the complaint has been filed by the L.N. Enterprise. Such contention of the petitioner has been strenuously disputed by the learned Counsel of the opposite party. According to him that by a bona fide mistake in stead of L.N. International it was typed L.N. Enterprise as the complainant although there was no mistake in the name of proprietress or the address.

2. I have given my anxious and thoughtful consideration to the rival submissions of the parties. The payee of the cheque M/s. L. N. International is a proprietorship concern of which Smt. Jayati Das is the proprietress. It appears the said complaint was filed by the proprietress Smt. Jayati Das on behalf of her proprietorship concern. It is true that in the complaint petition the proprietorship

concern has been described as L. N. Enterprise instead of L. N. International. However, there is no dispute as regards to the proprietress as well as the other description of the said concern, viz., its address and other things. In my opinion, the mistake crept in the petition of complaint is purely a bona fide mistake and due to such mistake the impugned complaint which is otherwise in accordance with law cannot be quashed.

3. This criminal revision has no merit and accordingly stands dismissed.

4. In view of the dismissal of the main revisional application, the application being CRAN No. 420 of 2009 also stands dismissed.

5. Criminal Section is directed to deliver urgent Photostat certified copy of this Judgment to the parties, if applied for, as early as possible.

*( Ashim Kumar Roy, J. )*