





2026:DHC:4474



impugned in these proceedings was passed by the Court of Sessions in the exercise of revisional jurisdiction on the petition filed by the present petitioner.

3. Today, having heard the learned counsel for petitioner, I do not find this petition worth issuing notice. Rather, the petition is found completely frivolous.

4. Broadly speaking, the circumstances relevant for present purposes, as deduced from the complaint filed by the present respondent under Section 138 Negotiable Instruments Act are as follows. The present respondent advanced a friendly loan of Rs.5,00,000/- in several installments to the present petitioner and co-accused (*not made party in this case*) by way of several cheques at their joint request. The present petitioner and the co-accused assured to return the loan amount within two years. In discharge of their liability to pay back the loan amount, the present petitioner issued the cheque which got dishonoured because funds to the credit of his bank account were not sufficient to honour the cheque. Despite service of statutory notice, the cheque amount was not paid, so the petitioner filed the complaint against the present petitioner and the co-accused. The learned trial court in the proceedings under Section 138 Negotiable Instruments Act directed the present petitioner and the co-accused to pay to the present respondent 20% of cheque amount towards interim compensation. That order of the learned trial court was challenged by the present petitioner and co-accused by way of criminal revision.

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5. By way of the order impugned in these proceedings, the learned revisional court observed that in their defence, the present petitioner and the co-accused admitted having received Rs.5,00,000/- loan from the present respondent by way of cheques. That being so, the learned revisional court upheld the decision of the trial court to award interim compensation to the tune of 20% of the cheque amount. But the learned revisional court also came to the conclusion that since the cheque in question was signed by only the present petitioner, it is only the present petitioner who is liable to pay the interim compensation in view of legal position laid down by the Supreme Court in the case of *Mrs. Aparna A. Shah vs M/s Sheth Developers P. Ltd. & Anr*, Criminal Appeal No.813/2013.

6. Against the above backdrop, on the issue of maintainability, learned counsel for petitioner submits that the bar under Section 397(3) CrPC shall not operate while invoking inherent powers where a case of gross injustice is set up. I am in agreement with this legal proposition. The provision under Section 397(3) CrPC [now, Section 438(3) BNSS] prohibits institution of second revision petition by a party. It is trite that what is explicitly prohibited by law cannot be given backdoor entry by invoking inherent powers. But where the petitioner seeking invocation of inherent powers is able to establish a case of gross injustice, the High Court would certainly be justified in invoking inherent jurisdiction in the nature of second revision.

7. So, what is to be seen in this case is as to whether it is a case of gross injustice.

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8. To show gross injustice, the only argument advanced by learned counsel for petitioner is that the present petitioner received only Rs.50,000/- out of the total loan amount, so he cannot be held liable to pay the entire cheque amount. I am not at all convinced with this argument, because if he received only Rs.50,000/-, there was no reason for him to draw cheque of Rs.5,00,000/-. At this stage, learned counsel for petitioner submits that he only signed the cheque. That would make no difference in view of admitted defence. It is certainly not a case of gross injustice for which this court would invoke inherent powers and allow backdoor entry to this second revision petition ignoring the bar under Section 397(3) CrPC [now Section 438(3) BNSS].

9. Therefore, the impugned order is upheld and the present petition is dismissed with costs of Rs.10,000/- to be deposited by the petitioner with the DHCLSC within one week.

10. Copy of this order be sent to the learned trial court to ensure compliance with cost.

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(JUDGE)

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