

ITEM NO.27

COURT NO.9

SECTION II-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 7950/2017

(Arising out of impugned final judgment and order dated 19-07-2017 in CRLM No. 6561/2014 passed by the High Court of Judicature at Patna)

SUNIL KUMAR JHA

Petitioner(s)

VERSUS

THE STATE OF BIHAR & ANR.

Respondent(s)

(IA No.104976/2017-EXEMPTION FROM FILING O.T.)

Date : 06-11-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA

HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Mr. Santosh Kumar, Adv.  
Mr. Rajiv Ranjan Mishra, Adv.  
Mr. Mushtaq Ahmad, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

Heard learned counsel for the petitioner.

Learned counsel for the petitioner contended that taking cognizance basing on the charge sheet for the offence punishable under Section 138 of the Negotiable Instrument Act is contrary to the provisions of the Act and the High Court has failed to look into this aspect and dismissed the Criminal Miscellaneous Petition filed under Section 482, Cr.P.C. despite the said offence was not even alleged by the complainant in the FIR. It is further contended that the procedure contemplated for the offences under N.I. Act is entirely different to that of the provisions for offences under I.P.C.

Having perused the impugned judgment and the material available on record, we are not inclined to interfere with the order passed by the High Court. However, the petitioner is at liberty to file an application for his discharge from the charge under Section 138 of the N.I. Act before the trial Court. If such application is filed by the petitioner, the trial Court is directed to consider and decide the same in accordance with law on its own merits.

The special leave petition is accordingly disposed of. Pending applications, if any, shall also stand disposed of.

(SWETA DHYANI)  
SENIOR PERSONAL ASSISTANT

(RENUKA SADANA)  
ASST. REGISTRAR

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Mr. Mushtaq Ahmad, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

We have heard learned counsel for the petitioner.

We are not inclined to interfere with the impugned order of the High Court. However, the petitioner is at liberty to file an application for discharge of Section 138 of the Negotiable Instrument Act, 1881 before the trial Court. The trial Court is at liberty to consider the same in accordance with law.

The special leave petition is, accordingly, disposed of.

Pending applications, if any, are also stand disposed of.

(SWETA DHYANI)  
SENIOR PERSONAL ASSISTANT

(RENUKA SADANA)  
ASST.REGISTRAR