

Pawan Kumar Vs. Shakuntala

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Court : Rajasthan

Decided On : Nov-03-1997

Reported in : 1997(2)WLN567

Judge : B.J. Shethna, J.

Appeal No. : S.B. Cr. Misc. Petition No. 685 of 1996

Appellant : Pawan Kumar

Respondent : Shakuntala

Disposition : Petition dismissed

Judgement :

B.J. Shethna, J.

1. The petitioner accused has challenged in this petition the impugned order dated 18.7.1996 passed by the trial court in Criminal Case No. 92/1996 filed by the respondent complainant Smt. Shakuntala for the offence punishable under Section 138 of the Negotiable Instruments Act (for short 'the Act') 1981.

2. The learned Counsel for the petitioner accused Shri A.L. Verma submitted that in this case notice was not served upon the accused, therefore, the trial court could not have taken cognizance as the mandatory provisions of Section 138 of the Act Were not complied with. It is clear from the record of the case that notice

was duly given, but the same returned unserved with the postal endorsement. 'not found'. In the case of M/s. Madan and Company v. Wazir Jaivir Chand reported in : AIR 1989 SC630 the Apex Court while considering the analogous provisions under the Rent Control Act, held that 'a landlord can do to comply with this provisions to post a prepaid registered letter (acknowledgement due or otherwise) containing the tenant's correct address. Once he does this and the letter is delivered to the post office he has no control over it. It is then presumed to have been delivered to the addressee under Section 27 of the General Clauses Act.' It has further held that 'if a registered letter addressed to a person at his residential address does not get served in the normal course and is returned it can only be attributed to the addressee's own conduct.'

3. Considering the reason assigned by the learned trial court while dismissing the application filed by the accused petitioner, I am fully convinced that the trial court has not committed any error which calls for the interference by this Court in exercise of it's inherent jurisdiction under Section 482 Cr. P.C.

4. Mr. Verma further submitted that the trial court took cognizance beyond the period of limitation. This submission has no substance. The cognizance was so rightly taken, which is clear from the record of the case. Hence, this submission has also no substance. No other contention was raised except the aforesaid contentions.

5. In view of the above discussion, this petition fails and is hereby dismissed.