

of Principal Sessions Judge Baramulla

Present :- Jeema Bashir

Mohammad Subhan Khan S/O Assadullah Khan R/O Kongumbara Pattan

..Revisionist

V/S

1. Mohammad Sultan Rather S/O Gh Mohammad Rather R/O Banid payeen
Tehsil Wagoora Baramulla

....Respondent....

Revision against the order dated 02.04.2015 passed by Ld JMIC/ Sub Judge
Baramulla in the case titled **Mohammad sultan Rather Vs Mohammad Subhan
Khan** (complaint under section 138 N.I Act)

Appearing counsel/s:

Mrs. Neelofar Masood Advocate for Revisionist

Nemo for respondents.

ORDER

Instant petition challenging the defensibility and legal sustainability
of the order propounded by Ld JMIC /Sub Judge Baramulla on 02.04.2015
in a case petitioned under section 138 N.I Act has been filed on the
grounds agitated in the petition . Alongside the main petition one more
application for staying the operation of impugned order has also been filed .
Be diarised .

Heard and considered .

Issue notice to the other side for appearance and list on 28.03.2018

Announced
14.03.2018

Principal
Sessions Judge Baramulla

سای قوویں مافزہ مول علی مافزہ مول نوکر کلب
نویا کی جہیز ۱۲/۱۱/۱۸ ۲۸.۳.۱۸

THE COURT OF PRINCIPAL SESSIONS JUDGE BARAMULLA
Present: Rajesh Sekhri

Filing No. JKBAO10001072018
Criminal Revision No. 75
Date of Institution : 14.03.2018
Date of Decision : 06.06.2018

In the case of :

Mohammad Subhan Khan
S/O: Assadullah Khan
R/O: Kongumdara Pattan
(Petitioner)

Vs

Mohammad Sultan Rather
S/O: Gh. Mohammad Rather
R/O: Bandi Payeen, Tehsil Wagura
(Respondent)

In the matter of: Revision against the Order dated 02.04.2015 passed by Ld. Judicial Magistrate (Sub Judge) Baramulla.

Ms. Neelofar Masood (Advocate) for the Petitioner
Mr. Bilal Ahmad Wani (Advocate) for the respondent

ORDER

The revision petitioner, by virtue of instant petition has questioned order dated 02.04.2015 passed by Ld. Judicial Magistrate 1st Class (Sub Judge) Baramulla predominantly on the ground that some legal objections raised by him in the complaint under Sec. 138 Negotiable Instruments Act pending adjudication in the trial court, have not been adverted to, which resulted in the miscarriage of justice.

Heard and considered.

Vide impugned order dated 2.04.2015 Ld. Trial Magistrate had issued process against the accused, petitioner herein. Petitioner can approach the trial court and question the maintainability of complaint. The impugned order being interlocutory, the present petition is not maintainable in view of statutory bar under sub section 2 of Section 435 of the Code of Criminal Procedure.

Order

Act i.e. negotiable instruments Act
into the technicalities the court had made an
against the accused

...wed thus, the present petition being devoid of merit and not maintainable,
...by dismissed and the impugned order is upheld. A copy of this order be
...veyed to Ld. Trial court for information.

Revision petition is accordingly disposed off along with its ancillary application.
File be consigned to records after due compilation.

[Signature]
Principal Sessions Judge
Baramulla

Announced ::
Dated: 06.06.2018

*Present
by cor
petition
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