

Shakti Travel & Tours vs State Of Bihar And Anr. on 28 April, 2000

Equivalent citations: 2000(2)ALD(CRI)788, 2000(3)BLJR2420, [2000]102COMPCAS409(SC), 2000(3)CTC164, JT2000(7)SC563, (2002)9SCC415, 2001 AIR SCW 2307, 2001 AIR - JHAR. H. C. R. 169, (2000) 3 EASTCRIC 837, (2001) 1 RECCRIR 465, (2000) 4 CURCRIR 121, (2000) 7 SUPREME 90, (2000) 102 COMCAS 409, (2003) 25 OCR 646, (2000) 102 COMCAS 408, (2000) 2 ORISSA LR 359, (2000) 3 ALLCRILR 697, (2000) 4 ICC 177, (2000) 7 SUPREME 429, (2000) 8 JT 111 (SC), (2001) 1 CIVLJ 878, (2001) 1 EASTCRIC 69, (2001) 20 OCR 200, (2001) 2 BANKCLR 648, 2001 ALLMR(CRI) 205, (2001) BANKJ 391, 2001 BOMCRSUP 7, (2009) 1 NIJ 134

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Bench: U.C. Banerjee

ORDER

G.B. Pattanaik, J.

1. Leave granted.

2. Accused who is the Appellant, assails the order of the High Court refusing to quash the complaint filed under Section 138 of the Negotiable Instruments Act. The only ground on which the learned Counsel for the Appellant prays for quashing of the complaint is that on the assertions made in paragraph 8 of the complaint, it must be held that notice has not been served and, therefore, an application under Section 138 could not have been maintained. Undoubtedly, the accused has a right to pay the money within 15 days from the date of the service of notice and only when it fails to pay, it is open for the complainant to file a case under Section 138 of the Negotiable Instruments Act. That being the position and in the complaint itself having not been mentioned that the notice has been served, on the assertions made in paragraph 8, the complaint itself is not maintainable. We accordingly quash the complaint.

3. The appeal is accordingly allowed.