

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

**Criminal Misc. Application No. 309 of 2012
(Under Section 482 of Code of Criminal Procedure)**

Sri Telu Ram

.....Applicant.

Versus

Special Judicial Magistrate, District Haridwar and others.

..... Respondents.

Ms. Neetu Singh, Advocate for the applicant.

Mr. Prabhakar Joshi, Brief Holder for the State of Uttarakhand.

Date of Judgment: 30.03.2012

JUDGMENT

BARIN GHOSH, C.J. (ORAL)

This application is not only frivolous, but aimed at creating stumbling blocks in the process of rendering justice, as known by law. Applicant has issued cheques, permitted them to be dishonoured and has now approached the Court for quashing the proceeding initiated for dishonour of the cheques on the story that the consideration for payment of the cheques has totally failed.

2. Issuance of a cheque is an action of payment that is not a contract. After taking steps to make payment, question of contending, that the consideration for issuance of the cheque has failed, seems to be not acceptable at all. Be that as it may, the same is required to be established by evidence, which can only be done in course of trial and not by filing an application under Section 482 of the Code of Criminal Procedure.

3. Present application fails and the same is dismissed.

**(Barin Ghosh, C.J.)
30.03.2012**