



Court No.3.

HIGH COURT OF SIKKIM

Record of proceedings

CRL. L.P. No.03 of 2022

JAGAT SINGH SINGHI

..... PETITIONER

VERSUS

RADHAY SHYAM SWAMI

..... RESPONDENT

Date: 12.08.2022

CORAM :

HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, J.

For Petitioner : Mr. Simeon Subba, Advocate.
Ms. Adeshna Subba Advocate

For Respondent : Mr. Zangpo Sherpa, Advocate.
Mr. Samso Hang Subba, Advocate.
Ms. Anjali Shah, Advocate.

.....

Heard Mr. Simeon Subba, learned counsel for the petitioner. The learned Judicial Magistrate by the impugned judgment dated 30.11.2021, *inter alia*, has come to the conclusion that though the complainant has proved that the accused had issued cheque in discharge of debt/liability, that the cheque had been dishonoured due to insufficient funds and that the accused failed to pay the amount to the complainant within 15 days from the receipt of legal notice to pay the cheque amount, however, the complaint having been filed 8 days after the statutory period of one month limitation period has expired. That the cause of action arose on receipt of the first legal notice and the petitioner failed to comply with the statutory requirements under 142 (b) of the Negotiable Instrument Act 1881. Consequently, the respondent has been acquitted for the offence under section 138 of the Negotiable Instruments Act 1881. On consideration of the issues raised



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before this court by the petitioner it is felt necessary to examine it further. Accordingly, leave is granted to the petitioner.

Register the criminal appeal and list on 19.09.2022.

Judge

Index : ~~Yes~~ / No
to/ Internet : Yes / ~~No~~