

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-10368-2014 (O&M)

Date of decision : 09.01.2015

Lakhbir Singh

...Petitioner

Versus

M/s Seasons Marketing Ltd. and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. A.S. Kalra, Advocate for the petitioner.

Mr. V.K. Sachdeva, Advocate for respondent No.1.

Mr. Sukant Gupta, Addl.P.P. for U.T. Chandigarh.

JITENDRA CHAUHAN, J.

The present petition under Section 482 of the Code of Criminal Procedure, (for short, 'the Cr.P.C.') has been filed seeking quashing of criminal complaint No.1891 of 2013 dated 05.07.2013, titled as 'M/s Seasons Marketing Limited Vs. Lakhbir Singh', pending in the Court of Judicial Magistrate 1st Class, Chandigarh, and all consequential proceedings arising therefrom.

The sole contention raised by the learned counsel for the petitioner is that the impugned summoning order has been passed without complying with the mandatory provisions of Section 202(1)

Cr.P.C. He cites **2010(3) R.C.R. (Criminal) 509, Neeta Sinha Vs. P.S. Raj Steels Private Ltd.;** and **2013(2) SCC 488, National Bank of Oman Vs. Barakara Abdul Aziz.**

On the other hand, the learned counsel for respondent No.1 has vehemently opposed the present petition. It is contended that similar petitions bearing CRM-M Nos.37569 and 37570 of 2013, against the same complainant stand dismissed by this Court on 08.11.2013. It is further argued that the requirement of holding an inquiry under the amended provisions of Section 202 Cr.P.C. is not attracted as far as the offences under Section 138 of the Negotiable Instruments Act (for short, the 'NI Act') are concerned.

Heard.

Section 202 Cr.P.C. reads as under:-

“202.Postponement of issue of process.-(1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance or which has been made over to him under Section 192, may, if he thinks fit, (and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction) postpone the issue of process against the accused, and either enquire into the case himself or direct an investigation to be made

by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding.”

A Co-ordinate Bench of this Court in ***Piyush Bharat Saini Vs. Paras Gupta***, bearing CRM-M-5325-2012, decided on 11.03.2013, has elaborately dealt with the controversy involved in the present case, and held as under:-

“The aim of these provisions is to ensure a speedy trial and expeditious disposal of cases, which are found to have clogged the criminal justice system. If strict adherence in such cases where certain evidences can be led under the enabling provisions made under the Act is insisted upon then it would negate the requirement of expeditious disposal of the cases, which is the aim under the Act. Thus, the view expressed in the line of cases that enquiry as envisaged under the emended provisions of Section 202 Cr.P.C. may not necessarily be insisted upon in these cases tried under the Act where the accused person resides outside the jurisdiction of the Magistrate is reasonable. However, the ratio of law

laid down in S.K. Bhowmik's case (supra) and other line of decisions still will hold good and can not be taken to have been diluted in any manner in view of the observations made above. I am inclined to hold that the strict requirement of Section 202 Cr.P.C. may not be the need in cases under the Act as that may tend to negate the very purpose of expeditious disposal of the cases under the Act and may also nullify the effect of special provisions made under the Act. The plea of the petitioner in all these petitions to quash the complaints and the summoning orders, thus, can not be accepted.”

As regards the case law cited by learned counsel for the petitioner in National Bank of Oman's (supra), is concerned, the same is distinguishable inasmuch as in the cited case, the offences statedly committed were under Sections 418 and 420 of the Indian Penal Code.

In view of the above discussion, this Court does not find any merit in the present petition and the same is consequently dismissed.

09.01.2015
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(JITENDRA CHAUHAN)
JUDGE