

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

CRM-M No.19374 of 2012

Date of decision: 8th May, 2015

Govind Ram

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. B.S. Sewak, Advocate for
Mr. Rajesh Lamba, Advocate
for the petitioner.

Mr. Munish Sharma, Asstt. Advocate General, Haryana
for respondent No.1.

Mr. Keshav Partap Singh, Advocate
for respondent No.2.

FATEH DEEP SINGH, J.

Petitioner Govind Ram has knocked at the doors of this Court under Section 482 Cr.P.C. whereby he has sought quashing of the FIR and consequential proceedings arising out of it.

The essential facts that needs to be highlighted are that the petitioner claims that respondent Deepak Garg had borrowed from him ₹5.00 lacs on 12.02.2007 after the petitioner withdrew cash from his own account amounting to ₹1.50 lacs and ₹3.50 from the account

of his wife Sukhbiri and in acknowledgement of which the borrower had issued a cheque which was accepted on his assurance that it would be encashed. On presentation, it is alleged that when the petitioner presented the cheque, the same was dishonoured and he issued legal notice to the borrower on 07.12.2007 which was responded by way of reply dated 16.04.2007 (sic). It is the claim of the petitioner that thereafter he filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (in short, 'the Act') and that the borrower with a view to create a falsified defence moved an application to the police on 11.04.2007 and thereafter on 02.09.2011 a criminal case by way of FIR No.348 dated 17.09.2011 under Sections 379/420 IPC at Police Station City Palwal (Annexure P1) was registered on the allegations that the petitioner had stolen his blank cheque and forged it for a valuable consideration; thus claiming lodging of the FIR after 4½ years.

The stand of the respondent/State is that the signatures on the cheque and account opening form purported to be of the account holder were sent to Forensic Science Laboratory (FSL) and which opined that the signatures on the two did not tally and thus, it was apparent that the signatures on the cheque were forged one.

Heard Mr. B.S. Sewak, Advocate appearing on behalf of Mr. Rajesh Lamba, Advocate for the petitioner; Mr. Munish Sharma, Asstt. Advocate General, Haryana for the State/respondent No.1 and Mr. Keshav Partap Singh, Advocate representing respondent No.2.

The petitioner has come to this Court under the provisions of Section 482 Cr.P.C. and in view of the settled position of law, reference of which can be taken from '**State of Haryana and others v. Ch.Bhajan Lal and others**' 1992 AIR SC 604, is to be sparingly used in rarest of the rare cases. Since as per the own admission of the petitioner, there is a tangible dispute over a cheque between the complainant present petitioner Govind Ram who claims that it was issued for a valuable consideration whereas respondent No.2 claims that his blank cheque was stolen by the petitioner and after forging his signatures has filed a complaint under Section 138 of the Act.

Thus, in view of this rallying point of contention, it cannot be adjudicated judiciously and comprehensively in the present proceedings as to the real truth. To unravel the same it is essential that the parties lead evidence and are allowed to lead evidence and thereafter a definite conclusion can be drawn as to the real truth behind this controversy. Mere delay of 4½ years as is sought to be contended on behalf of the petitioner by Mr. B.S. Sewak, Advocate does not mean or can be construed as detrimental to the interests of the party in the present proceedings who lodged the FIR and the very reasons behind this delay can only be proved through the evidence and legitimacy can be adjudicated upon. Even on the other side, it is stand of the State that in the light of the report of FSL as to the comparison of signatures on the cheque and account opening form belonging to the same very party, there was a variable difference; are also adjudicable only after the parties lead their evidence.

Since the two matters revolve around the same very material issue, it will be in the fitness of things if the criminal complaint filed under Section 138 of the Act preferred by the present petitioner Govind Ram and the criminal case by way of FIR registered by respondent No.2 Deepak Garg are adjudicated side by side by one and the same Court together. Therefore, it would be appropriate to order that the District Judge, Palwal shall ensure that both these matters are entrusted to one and the same Court for comprehensive adjudication.

Thus, in the light of what has been discussed above, there is no merit in the instant petition and the same stands dismissed.

(FATEH DEEP SINGH)
JUDGE

May 8, 2015
rps