

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

**CRM-M-21207-2010 (O&M)**

**Date of Decision: September 16, 2015**

Anil Kumar

.....Petitioner

Versus

Paramjit Singh

.....Respondent

**CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI**

Present: Mr.P.S.Khurana, Advocate  
for the petitioner.

None for the respondent.

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- 1. Whether Reporters of local papers may be allowed to see the judgment ? yes*
- 2. To be referred to the Reporters or not ? yes*
- 3. Whether the judgment should be reported in the Digest? yes*

**NARESH KUMAR SANGHI, J.(ORAL)**

Challenge in this petition, filed under Section 482, Cr.P.C., is to the complaint, dated 30.09.2009, (Annexure P1), titled as 'Paramjit Singh vs. Anil Kumar' and the summoning order, dated 30.09.2009 (Annexure P2), passed by learned Sub Divisional Judicial Magistrate, Phillaur, District Jalandhar.

Learned counsel contends that the cheque in dispute was a security cheque; no details of the sale-deed to be executed have been mentioned in the complaint filed by the respondent-

complainant; the respondent has even failed to file the reply of the present petition filed by the petitioner and that on the basis of vague allegations, the complaint was filed. In support of his contentions learned counsel has placed reliance on the judgments rendered in the matters of **M.S.Narayana Menon @ Mani vs State of Kerala and another**, 2006(3) R.C.R. (Criminal) 504 (SC), **M/s.Balaji Seafoods Exports (India) Ltd. vs Mac Industries Ltd.**, 1999(1) R.C.R. (Criminal) 683 (Madras), and **Shanku Concretes Pvt. Ltd. and others vs State of Gujarat and another**, 2000(3) R.C.R. (Criminal) 258 (Gujarat).

Since no one has put in appearance for the respondent-complainant for the last several dates, therefore, this Court is constrained to hear the learned counsel for the petitioner and decide the present petition.

As per the learned counsel for the petitioner, the impugned cheque was issued as a security cheque. Perusal of the complaint, Annexure P1, would reveal that in the month of December 2008, the respondent-complainant had sold the property to the petitioner-accused. Since out of the total sale consideration, the petitioner-accused was short of ₹10,00,000/- (Rupees ten lacs only) hence, in lieu thereof the impugned cheque of ₹10,00,000/- (Rupees ten lacs only) was handed over

for the remaining sale consideration. In para No.2 of the complaint, Annexure P1, it was specifically averred that in order to discharge the above said liability, the petitioner-accused issued the impugned cheque. All the details of the impugned cheque have been described in the said para. Though to support his contentions, the learned counsel has referred to certain documents but the veracity of the said documents are to be established during trial. The version put up by the petitioner-accused has to be dealt with by learned Trial Court after scanning all the evidence of the two sides to be led during trial. The case law cited by learned counsel for the petitioner is also not applicable to the facts of the case in hand. In the matter of **M.S.Narayana Menon @ Mani** (supra), Hon'ble the Supreme Court had acquitted the accused on the basis of the evidence led during trial.

This Court is of the considered opinion that disputed questions of facts cannot be decided by the High Court while dealing with a petition filed under Section 482, Cr.P.C. The petitioner would get fair opportunity to set up his defence during trial.

No ground for acceptance of the present petition is made out.

Dismissed.

Interim directions issued vide order dated 20.09.2011  
are hereby vacated.

Parties to the *lis* shall appear before learned Trial  
Court on 16.10.2015.

The order of this Court be communicated to the  
learned Trial Court immediately.

**September 16, 2015**  
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**(NARESH KUMAR SANGHI)**  
**JUDGE**