

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

CRM M-25481 of 2013

Date of decision : 29.10.2015

Jatinder Singh

....Petitioner

V/s

Municipal Committee, Zirakpur & anr.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Manu K. Bhandari, Advocate for the petitioner.

Mr. J.S. Toor, Advocate for the respondents.

RAJAN GUPTA J.

Petitioner has sought quashing of complaint no. 233 of 2012 dated 10.11.2012 (Annexure P-6) registered against him under section 138 of the Negotiable Instruments Act in the court of Sub Divisional Judicial Magistrate, Dera Bassi and summoning order dated 10.11.2012, Annexure P-7.

Learned counsel for the petitioner has assailed the order. He submits that trial court has misread the oral as well as documentary evidence on record. According to him, cheque in question was issued by his son and not by him. He, thus, prays that order passed by trial court deserves to be set-aside.

Plea has been opposed by learned counsel for the respondent. According to him petitioner has committed fraud and caused loss to the public funds.

I have heard learned counsel for the parties.

It appears that petitioner received a notice under section 80(2) of the Punjab Municipal Act, 1911 to deposit an

amount of ₹63,35,865/- being arrest of house tax up to the year 2011-2012. In order to discharge his liability, son of the petitioner namely Ravinder Singh issued a cheque no. 029736 dated 12.07.2012 for ₹5,00,000/- drawn on the Jammu and Kashmir Bank, Sector, 20, Panchkula. The cheque was presented for collection but was returned vide memo dated 01.10.2012 with the remarks 'insufficient funds'. Thereafter, notice envisaged by the Act was served upon the respondent. On his failure to pay the amount in question, complaint under section 138 of the Act was instituted.

Stand of the petitioner is that he has been summoned to face trial without application of mind. During the course of hearing, Secretary, Municipal Committee, Zirakpur was asked to personally appear to render assistance. He is present in court today and has produced the cheque in question. Learned counsel for the Municipal Committee submits that from the perusal of signatures on the cheque, one cannot make out whether it bears the signatures of petitioner or his son. There is substance in the submission of learned counsel for the Municipal Committee. Under the circumstances, matter can only be decided after some evidence is led before the trial court. There is no ground for interference in inherent jurisdiction. Dismissed.

October 29, 2015

Ajay

(RAJAN GUPTA)
JUDGE