

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM NO. M-18094 of 2011

Date of decision:- July 15, 2016

M/s Uniply Industries Ltd. and others

...Petitioners...

versus

M/s Guru Aman Industries

...Respondent...

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Shubhankar Baweja, Advocate for
Mr. A.R. Takkar, Advocate for the petitioners.

Ms. Prachi Gumber, Advocate for
Mr. Vishal Gupta, Advocate for the respondent.

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

JASPAL SINGH, J.

By virtue of instant petition preferred under Section 482 of the Code of Criminal Procedure, petitioners have sought quashing of complaint No. 150 of 2006, dated 31.08.2006, captioned as M/s Guru Amar industries vs. M/s Uniply Industries Ltd and others along with all subsequent proceedings including summoning order dated 09.09.2010 (Annexure P-11).

2. Briefly stated the facts giving rise to the instant petition are that in pursuance to the various transactions in between the parties, cheque No. 082321, dated 10.06.2006 worth Rs.2,11,903/- was issued by the petitioners in favour of respondent-complainant, which was dishonoured on presentation. Accordingly, legal notice dated 14.07.2006 (Annexure P-5)

was issued by the respondent-complainant, which was received by the

petitioners on 17.07.2006. On receipt of notice, a draft in respect of the amount of cheque in question was sent to the complainant along with reply. But on the pretext that there was delay of 2 days in sending the drafts, it was returned. Thereafter, a dialog was initiated between the parties and in pursuance thereof, fresh cheque No. 82407 for Rs.2,11,903/- drawn at UTI Bank dated 19.08.2006 was issued and the said cheque on presentation by the complainant/supplier in their bank was cleared by UTI Bank on 22.08.2006 and certificate dated 23.08.2006 (Annexure P-8) in this regard was issued by the bank.

3. During the course of arguments, learned counsel for the respondent-complainant could not deny the aforesaid facts. Rather, from the documentary evidence available on file, it is evident that the cheque so issued by the petitioner has since been encashed. Thus, the respondent-complainant was left with no cause of action to file a complaint under Section 138 of the Negotiable Instruments Act but for the reasons best known to the complainant(s), they preferred the complaint by mis-stating the facts, on the basis of which, the petitioners have been summoned to face trial.

4. In view of the above admitted and proved facts, no case is made out against the petitioners. Accordingly, the complaint No.150 of 2006, dated 31.08.2016 and summoning order dated 09.09.2010 as well as all subsequent proceedings are quashed qua the petitioners by way of acceptance of instant petition.

July 15, 2016
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(JASPAL SINGH)
JUDGE