

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM No.M-14768 of 2016(O&M)****Date of Decision: May 02, 2016**

Salil Malhotra

...Petitioner

VERSUS

Roll Bank Financial Solution Pvt. Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Harsh Aggarwal, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against respondent for quashing the criminal complaint No.8523 of 2014 titled as 'Roll Bank Financial Solution Pvt. Ltd. vs. Salil Malhotra and others' under section 138/142 of the Negotiable Instruments Act, summoning order dated 02.12.2014 etc. with all subsequent proceedings.

At the time of arguments, learned counsel for the petitioner only argued on point that the complaint filed by the present respondent under Section 138 of the Negotiable Instruments Act is premature and cannot be filed. He next argued that in the present case, cheque was dishonoured vide memo dated 07.10.2014, which as per complainant, he received on 10.10.2014. As per the complaint,

legal notice was served through speed post on 18.10.2014. He further argued that notice is supposed to be served within 30 days, then 15 days deemed to be granted to the accused and then only complaint can be filed. He also argued that the complaint has been filed on 02.12.2014 instead of 03.12.2014.

I have heard learned counsel for the petitioner and have gone through the record.

When this Court, specifically asked to show the provision or law that the notice is to be presumed to be served after 30 days if the acknowledgment is not returned, learned counsel for the petitioner failed to show anything. At this stage, there is nothing to show as to on which date the notice was served. Otherwise also, this is finding of fact and it is to be proved before the trial Court as to whether the notice was served or not and when it is to be treated as served. At this stage, there is nothing to show that complaint is premature.

In view of the above discussion, I do not find any ground to quash the criminal complaint, summoning order etc. Otherwise also, the revision petition against the summoning order has already been dismissed.

Therefore, finding no merit in the present petition, the same dismissed.

May 02, 2016
Vgulati

(INDERJIT SINGH)
JUDGE