

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-16187-2016

Date of decision:- May 11, 2016

Gahar Singh

...Petitioner...

versus

Satish Kumar

...Respondent...

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Kamal Narula, Advocate
for the petitioner.

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 this petition, the petitioner has sought quashing of complaint No. 238-2 of 27.08.2013 titled as “**Satish Kumar vs. Gahar Singh**” (Annexure P-1) as well as summoning order dated 02.12.2014 (Annexure P-2) passed by Chief Judicial Magistrate, Fazilka as well as the order dated 08.10.2015 (Annexure P-3) whereby the revision petition preferred by the petitioner challenging order dated 02.12.2014 has been dismissed as well as quashing of all subsequent proceedings arising from the aforesaid complaint.

2. The quashing of complaint has been sought by the petitioner on the ground that there has been a relation of agriculturist

and commission agent in between the parties to the petition and the petitioner used to sell his agricultural produce at the shop of respondent/complainant and during the course of said transaction, the respondent/complainant took blank cheques from the petitioner and thereafter, by misusing the same, he lodged a false complaint. There is also a general tendency that when there are transactions with regard to the sale of agricultural produce in between the agriculturist and commission agent, they generally obtain blank cheques bearing the signatures of an agriculturist as a security. Similarly, in the case in hand, respondent No.2-complainant just to secure his interest, obtain the blank cheques signed by the petitioner, which were subsequently converted and presented in the bank. Even in the case in hand, respondent/complainant has also filed a civil suit on the basis of the alleged settlement in between the parties on the basis of the entries appearing in the day book and ledger book, which have been annexed with this petition as Annexure P-1. All these factors have neither been considered and taken into consideration by the Id. Magistrate nor by the Id. Additional Sessions Judge while dismissing the revision petition. Thus, neither the impugned orders nor the complaint are sustainable in the eyes of law and are liable to be quashed by way of acceptance of instant petition.

3. After bestowing due consideration to the submission made by learned counsel for the petitioner and perusal of record and scrutinizing the impugned order(s), this Court does not find any merit in the instant petition.

4. The filing of civil suit for recovery on the basis of entries

made in the day book pertaining to the transactions in between the parties to the petition does not *ipso facto* means that respondent/complainant is debarred or precluded from filing a complaint under Section 138 of the Negotiable Instrument Act, especially, when the cheques issued by the petitioner admittedly bearing his signatures have been dishonoured on presentation. Both the proceedings can proceed simultaneously.

5. So far as the contention of learned counsel for the petitioner that the cheques have been obtained by the complainant-respondent during the course of transactions as security is a matter of evidence and can be proved before the Id. trial court during trial and it can not be made a ground for quashing the complaint or impugned order(s). In fact, no cogent and convincing ground could be established by the petitioner, which can be made the basis for quashing the complaint or impugned order(s).

6. In the light of what has been discussed above, this Court does not find any merit in the instant petition and same is dismissed.

May 11, 2016
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(JASPAL SINGH)
JUDGE