

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-21204 of 2016

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Date of decision:14.7.2016

Jasmail Singh

...Petitioner

v.

Balwinder Singh

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Sapan Dhir, Advocate for the petitioner.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. for quashing of complaint No.39-A/17.11.2015/COMP No.1348/2015 dated 29.10.2015 titled as “Balwinder Singh Vs. Jasmail Singh” (Annexure-P.8) filed by respondent under Section 138 of Negotiable Instruments Act, 1881 (hereinafter referred to as ‘NI Act’) and the impugned order dated 17.11.2015 (Annexure-P.9) passed by learned J.M.I.C., Barnala, whereby the petitioner has illegally been summoned in the above said complaint, without any application of mind and without assigning any cogent reasons and for quashing all the subsequent proceedings arising therefrom.

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

From the record, I find that a complaint had been filed by Balwinder Singh against Jasmail Singh under Section 138 of the NI Act.

Learned counsel for the petitioner argued that the petitioner is partner with one Jagdev Singh and he had stolen the signed cheque of the firm account of the petitioner and has given the same to respondent Balwinder Singh. The learned counsel argued that the petitioner had not taken any money from the respondent nor issued the cheque to him though he admits his signatures on the cheque. He also argued that the money can be withdrawn by signing the cheque by other partner also, but there are no signatures of the other partner.

Learned counsel for the petitioner has argued his defence before this Court. When the petitioner is admitting his signatures on the cheque and the cheque is with the respondent, which has been dishonoured due to insufficient funds, therefore, at this stage, in no way, it can be held that the filing of present complaint is abuse of process of law nor there is anything on record at this stage to say that the summoning order is illegal. The petitioner is to prove his defence version by bringing the evidence. At this stage, this Court cannot give the finding without recording of the evidence as to whether the defence version given by the present petitioner is correct. Findings of fact are to be given by the learned trial Court on the basis of evidence.

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

July 14, 2016.

(Inderjit Singh)
Judge

hsp