

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

CRM No.M-25945 of 2016 (O&M)

Date of Decision: August 08, 2016

M/s KCC Steel Reels Pvt. Ltd. and others

...Petitioners

VERSUS

M/s Swastik Udyog

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Kunal Dawar, Advocate
for the petitioner.

INDERJIT SINGH, J.

The petitioner has filed this petition under Section 482 Cr.P.C. for quashing of criminal complaint No.1401/15 dated 20.03.2014 under Sections 138/141 of the Negotiable Instruments Act read with Section 420 IPC titled as 'M/s Swastik Udyog vs. M/s KCC Steel Reels Pvt. Ltd.' along with all subsequent proceedings arising therefrom.

Learned counsel for the petitioner argued that there is no liability to pay the amount of the cheque as stated by the complainant. He argued that a false complaint has been filed and no documents have been pleaded to show the liability.

After hearing learned counsel for the petitioner and after going through the record, I find that in the complaint under Section 138 of the Negotiable Instruments Act, if the cheque was stated to be duly signed by

the accused and duly issued by the accused from his account, then

presumption under Section 139 of the NI Act arises against the accused and in favour of the complainant and the accused is to rebut the presumption.

I have perused the complaint. In the complaint, there are averments regarding placing of order for supply of cable drums from complainant-firm and it is the allegation that complainant-firm supplied the material against bills. These facts regarding proving of liability etc. are the finding of facts, which is to be given by the trial Court. At this stage, nothing has been pointed out to show that the filing of complaint in question is abuse of process of law or amounts to miscarriage of justice. Whether the complaint is false or whether there was no liability, are the finding of facts, to be given by the trial Court. At this stage, no ground is made out for quashing of the criminal complaint.

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

August 08, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No