

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-No.35975 of 2015

Date of decision: January 05, 2016.

Santosh Kumar Aggarwal

... **Petitioner**

v.

M/s Shital Fibers Limited

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Shri Subhash Kumar, Advocate for the petitioner.

None for the respondent.

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

Kuldip Singh, J. (Oral):

Impugned in the present petition is the order dated 13.8.2014 whereby the prayer of the petitioner for discharging him and dismissal of the complaint filed by the respondent under Section 138 of the Negotiable Instruments Act, 1881 (in short the Act) was declined.

Brief facts of the case are that the present petitioner was prosecuted by the respondent-complainant under Section 138 of the Act on the ground that he issued a cheque of Rs.20,000/- which was dishonoured but during the pendency of the complaint, an application (Annexure P-4) was filed by the accused-petitioner with a prayer that since he has re-paid the entire amount, therefore, the complaint may be dismissed. In reply

(Annexure P-5), the complainant-respondent averred that although the

cheque amount has been paid but it was stated that it was done at a belated stage, when the offence had already been committed. The lower court held that mere payment of the cheque amount during the pendency of the complaint does not *ipso facto* amount to discharge of the liability after issuance of the notice of accusation.

I have heard learned Counsel for the petitioner.

The respondent-complainant did not appear despite notice.

It comes out that during the pendency of the complaint, the accused has admittedly repaid the entire amount of cheque. He is even ready to compensate the complainant for the interest part. It is argued that the present complaint is nothing but an abuse of the process of the court.

In view of the fact that the entire amount has been paid and the petitioner is ready to pay compensation, I am of the view that on the payment of reasonable compensation, the present complaint is liable to be quashed. Admittedly, the petitioner has already paid a sum of Rs.1,000/- in excess of the cheque amount. Accordingly, the petitioner is directed to pay another sum of Rs.5,000/- as compensation to the complainant and on rendering of such amount before the lower court in the shape of demand draft in favour of the complainant, the complaint will stand quashed.

The petition stands disposed of accordingly.

January 05, 2016.
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[Kuldip Singh]
Judge