

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

CRM No.M-10469 of 2017 (O&M)
Date of Decision: March 27, 2017

M/s Atma Ram Mela Ram Steels Pvt. Ltd. and another

...Petitioners

VERSUS

M/s Mukesh Udyog Limited

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Manish Jain, Advocate for the petitioners.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. against respondent M/s Mukesh Udyog Limited for quashing of complaint No.COMA 2808/16 dated 24.02.2016 under Section 138 of the Negotiable Instruments Act titled as “M/s Mukesh Udyog Limited vs. Atma Ram Mela Ram Steels Pvt. Ltd. etc.” and for quashing of summoning order dated 11.04.2016 passed by learned Judicial Magistrate Ist Class, Ludhiana.

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

At the time of arguments, learned counsel for the petitioner argued that memo returning the cheques in question says 'other reasons' and has not specifically stated that these have been returned due to 'Insufficient Funds' etc. Nothing more has been argued in this case.

It is settled law that at the time of summoning, the Court is to see whether there are sufficient grounds to proceed further in the complaint on the basis of the averments of the complaint as well as preliminary

evidence and the Court is only to see whether any offence is made out or

not. In the complaint, it is specifically written that the cheques, details of which have been given in the complaint, were presented by the complainant for encashment but the same were returned unpaid with the memos dated 05.12.2015 and 07.12.2015. Therefore, the complainant contacted the accused and apprised the accused about the fate of the said cheques. On this, accused assured the complainant to present the cheques again to their bankers and undertook to get the same cleared. The complainant again presented the said cheques and the same were returned unpaid with the memo dated 06.01.2016. It is further stated that accused have no arrangement of funds in their account to honour the liability and the accused in connivance with their bankers, got issued the memos and got returned the cheques.

In view of the averments in the complaint, I find that no ground is made out for quashing of the complaint. The complainant would produce the evidence on record to prove the memos etc. The fact whether there was sufficient amount in the account of the complainant and the fact whether the ingredients of Section 138 of the Negotiable Instruments Act have been proved as per law or not, are findings of fact, which are to be given by the trial Court on the basis of the evidence, which is yet to be produced by the complainant. At this stage, there is nothing on the record to show that filing of the complaint is abuse of process of law or no offence is made out.

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

March 27, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No