

CRM-M-21006-2017

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

CRM-M-21006-2017

Date of Decision: 02.06.2017

M/s Needle Eye Plastics Industries Pvt. Ltd. and others

... Petitioners

Versus

M/s A.D.H. Agencies

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. R.S.Randhawa, Advocate,
for the petitioners.

INDERJIT SINGH, J.

Petitioners-M/s Needle Eye Plastics Industries and others have filed this petition under Section 482 Cr.P.C. for quashing of Complaint No.6320/2015 dated 13.11.2015, under Section 138 of N.I.Act, pending in the Court of learned Judicial Magistrate Ist Class, Chandigarh; summoning order dated 21.01.2016 and all other consequential proceedings arising therefrom.

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

From the record, I find that respondent-M/s A.D.H. Agencies has filed a complaint under Section 138 read with Sections 141 and 142 of N.I.Act against the present petitioners-accused. It is mainly stated in the complaint that the accused towards the discharge of part payment of their admitted legal liability, issued cheque No.003161 dated 30.05.2015, for the

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sum of ₹4,86,675/-, which on presentation for encashment was returned with the remarks “*Insufficient Funds*”. Thereafter, legal notice was given to the accused and when the amount was not paid, complaint was filed.

The only defence of the petitioners is that they have already submitted the post dated cheques in reply to the legal notice and the cheques in question are dated 30.12.2015 and 30.01.2016, amounting to ₹4,86,675/- each. Perusal of the record shows that this complaint has been filed by the complainant on 13.11.2015 and till then, amount which was required to be paid as per the legal notice, has not been paid. Even if it is taken that post dated cheques were given by the accused in reply to the legal notice dated 23.09.2015, then it does not amount to make the payment before filing of the complaint or during the prescribed period. The facts as to whether these cheques have been got encashed later on or whether now no amount is due are the findings of the fact which are to be given by the trial Court on the basis of evidence. At this stage, no ground is made out for quashing of the impugned complaint or summoning order only on the ground that post dated cheques were sent in reply to the legal notice by the accused to the complainant.

Finding no merit in the present petition, the same is dismissed.

02.06.2017

parveen kumar

**(INDERJIT SINGH)
JUDGE**

Note:	Whether speaking/reasoned	:	Yes
	Whether reportable	:	No