

In the High Court of Punjab and Haryana at Chandigarh

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(1) Criminal Misc. No.38118 of 2017 and
Criminal Misc. No.M-22207 of 2014

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Date of decision:28.11.2017

Komal Khurana

...Petitioner

v.

K.R. Exports

...Respondent

....

(2) Criminal Misc. No.M-22208 of 2014

.....

Komal Khurana

...Petitioner

v.

Yogesh Dutt

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Vivek Salathia, Advocate for the petitioner.

Mr. Bhavesh Aggarwal, Advocate for Mr. Ashish Aggarwal,
Advocate for the complainant-respondents.

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Inderjit Singh, J.

Criminal Misc. No.38118 of 2017:

Document (Annexure-P.9) (colly.) attached with the criminal
miscellaneous application is taken on record subject to just all exceptions.

The criminal miscellaneous application stands allowed.

**Criminal Misc. No.M-22207 of 2014 &
Criminal Misc. No.M-22208 of 2014:**

This order will dispose of the above mentioned two criminal miscellaneous petitions filed under Section 482 Cr.P.C. against respondents- K.R. Exports and Yogesh Dutt for quashing of the criminal complaints No.NACT1078 and NACT1076 dated 25.3.2014 filed under Section 138 of the Negotiable Instruments Act 1881 (hereinafter referred to as 'the NI Act') titled as "K.R. Exports Vs. Komal Khurana" and "Yogesh Dutt Vs. Komal Khurana" as well as summoning orders dated 25.3.2014 passed by learned Judicial Magistrate Ist Class, Amritsar vide which the petitioner has wrongly been summoned by the learned trial Court.

Notice of motion has been issued in these cases.

Respondents have put in appearance through their counsel-Mr. Ashish Aggarwal, Advocate earlier. Today, Mr. Bhavesh Aggarwal, Advocate has put in appearance for Mr. Ashish Aggarwal, Advocate, who was earlier appearing for the respondents and stated that he has no instructions from the respondents and has not assisted this Court on behalf of the respondents.

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

The facts have been taken from Criminal Misc. No.M-22207 of 2014. Komal Khurana-petitioner herein was having very good friendly relations with the complainants-Kapil Mehra and Yogesh Dutt and their family members. The accused was in dire need of money and as such in the month of September and October 2013, the accused approached the complainants and requested to advance her a sum of ₹5 Lacs and

₹2,50,000/- respectively for some of her need. As the complainants were having very friendly relations with the accused, Kapil Mehra-proprietor of K.R. Exports advanced her a sum of ₹4,80,000/- in the month of September, 2013, which was available with him as friendly loan. It is also in the complaint that the accused-petitioner issued one cheque bearing No.122931 dated 3.1.2014 for ₹4,80,000/- under her signatures drawn on Bank of India, Amritsar in favour of R.K. Exports concern of the complainant. In another complaint, it has been mentioned that the accused issued cheque bearing No.122944 dated 2.3.2014 for ₹2,50,000/- under her signatures drawn on Bank of India, Amritsar in favour of the complainant-Yogesh Dutt. These cheques on presentation in the bank for encashment were dishonoured with the remarks “fund insufficient” and “insufficient balance” respectively.

Learned counsel for the petitioner only argued that the cheques in question do not bear the signatures of the accused. The cheques bear the signatures of her husband. He argued that it is no where the case of the complainant in both the cases that the cheques were bearing the signatures of husband of the complainant. To prove this fact that the cheques did not bear the signatures of Komal Khurana-accused, the copies of cheques have been placed on record. I myself have compared the signatures of Komal Khurana on the Vakalatnama as well as on the certificate given by the Bank showing the signatures of Komal Khurana and also the signatures on the passport of Komal Khurana with the cheques in question. The cheques in question do not bear the signatures of Komal Khurana. Rather, as per the documents given by the bank, it looks that these cheques bear the signatures

of her husband Shakti Khurana. As the cheques do not bear the signatures of the petitioner and the petitioner had not issued the cheques, therefore, one of the necessary ingredients is missing. As the husband of the present petitioner has already died, it looks that these complaints have been filed against the petitioner by stating that the cheques had been issued by her. The filing of these complaints is nothing but abuse of the process of law and the summoning orders amount to miscarriage of justice.

In view of the above, I find merit in the present petitions and the same are allowed. The criminal complaints No.NACT1078 and NACT1076 dated 25.3.2014 filed under Section 138 of the Negotiable Instruments Act 1881 titled as “K.R. Exports Vs. Komal Khurana” and “Yogesh Dutt Vs. Komal Khurana” as well as summoning orders dated 25.3.2014 passed by learned Judicial Magistrate Ist Class, Amritsar and all other subsequent proceedings arising therefrom shall stand quashed.

November 28, 2017.

(Inderjit Singh)
Judge

hsp

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