

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

CRM No.M-28158 of 2017 (O&M)
Date of Decision: August 22, 2017

Vishal Sharma

...Petitioner

VERSUS

Balkaran Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Aalok Jagga, Advocate
for the petitioner.

INDERJIT SINGH, J.

The petitioner has filed this petition under Section 482 Cr.P.C. against respondent Balkaran Singh for quashing of complaint No.213 filed on 21.09.2015 titled as 'Balkaran Singh vs. Vishal Sharma', summoning order dated 29.10.2015 passed by learned JMIC, Bathinda and judgment dated 09.03.2017 passed by learned Addl. Sessions Judge, Bathinda, vide which the revision filed by the petitioner against the summoning order was dismissed.

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

From the record, I find that as per the case of the complainant, in discharge of his legal liability, the accused-petitioner issued cheque bearing No.058672 dated 20.06.2012 for a sum of ₹95 lakhs, in favour of the complainant with the assurance that said cheque will be honoured as and when it will be presented for collection but on presentation for encashment,

it was dishonoured with remarks “payment stopped by the drawer”. Legal

notice was served. When the amount was not paid, then the complaint was filed within stipulated period.

Learned counsel for the petitioner argued mainly on one point that the cheque in question has been presented at the bank branch at Bathinda. He further argued that it is specifically written on the cheque payable at par all the Branches of Axis Bank in India. Not to exceed ₹50,000/- for clearing payments at outstation centres. Learned counsel for the petitioner, therefore, argued that this cheque was not sent to the Ludhiana Branch and it was dishonoured by the Bathinda branch only. He also argued that no memo or document is there that this cheque was sent to Ludhiana for clearance.

The perusal of the record shows that it is a finding of fact whether the bank at Bathinda had sent the cheque for clearance to the Ludhiana Branch and report has been received from Ludhiana Branch or not. All these facts are to be determined by learned trial court from the bank record or from the evidence to be produced by the complainant. Furthermore, the revision petition against the summoning order has already been dismissed by learned Addl. Sessions Judge, Bathinda.

At this stage, in no way, it can be held that filing of complaint in question is abuse of process of law and amounts to miscarriage of justice.

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

August 22, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No