

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

CRM-M-35425 of 2016 (O&M)

Date of decision : 01.02.2017

Surender Saharan

...Petitioner

Versus

Bal Kishan

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sushil K. Verma, Advocate for the petitioner (s).

JITENDRA CHAUHAN, J. (Oral)

The present petition has been filed for setting aside the impugned order dated 06.09.2016 (Annexure P-4) passed by learned Additional Sessions Judge, Sirsa, whereby the revision filed by the petitioner for quashing of summoning order dated 04.03.2015 (Annexure P-2) and complaint No.CIS NI Act/578/2014 case No.89-2 of 2014/2015 filed under Section 138 of the Negotiable Instruments Act (for short 'the Act'), has been dismissed.

The learned counsel states that the alleged cheque dated 19.08.2014 was issued by the petitioner as blank cheque towards the collateral security and not for enforcement of debt. Therefore, the petitioner cannot be summoned under Section 138 of the Act. He cites '**Shri Ishar Alloys Steels Ltd. VS. Jayaswals NECO Ltd.**' passed by Hon'ble the

Supreme Court in Criminal Appeal No.219 of 2001 and '**Dashrath Rupsingh Rathod VS. State of Maharashtra and another**', JT 2014(9) SC 81.

I have heard the learned counsel for the petitioner and perused the entire record on file.

Considering the fact that the trial in the complaint case, wherein the petitioner has been summoned to face the trial under Section 138 of the Act, is at the initial stage; admittedly the cheque in question was issued by the petitioner and allegedly Rs.5,00,000/- were received by him from the respondent, the only question remains to be ascertained by the trial Court is whether the cheque was issued to discharge the legal debt or was issued as a security. Further, as per the statement of PW1-Mangat Ram, Manager, PNB Branch Jamal, District Sirsa, cheque in question was never received by his branch for clearance.

In these circumstances, this Court at this stage does not find any ground to interfere with the impugned judgments as the same do not suffer from illegality or perversity.

Consequently, the present petition fails and is hereby dismissed.

01.02.2017

ashok

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No