

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

CRM-M No.44112 of 2015 (O&M)

Date of Decision: 24.01.2017

INTERNATIONAL COIL LTD AND ANR

-PETITIONERS

VS

SWASTIK ARMAAN STEEL PVT LTD

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Sourabh Goel, Advocate
for the petitioners.

Mr. Sanjay Mittal, Advocate
for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

Petitioners have assailed complaint titled as “M/s Swastik Armaan Steel Pvt. Ltd. vs. International Coil Ltd. and another” filed under Section 138 of the Negotiable Instruments Act, 1881 and order of summoning dated 04.11.2015 passed by Judicial Magistrate Ist Class, Faridabad.

Petitioner No.1 is involved in the business of

manufacturing of Air Cooling Refrigerators and Chillers etc.

There was business transaction between petitioner No.1 and respondent in respect of purchase of raw material.

During the course of business, cheque bearing No.789001 dated 25.03.2015 in a sum of Rs.8,45,925/- was sought to be encashed. The cheque was dishonoured and ultimately in due course, the complaint in question came to be filed by the respondent,

While passing the summoning order dated 04.11.2015, the accused-petitioner No.2 was ordered to be summoned for 16.01.2016. The present petition was filed even before date of appearance before the trial Court on 05.01.2016.

Learned counsel for the petitioners made a statement before this Court that the petitioners were ready to pay the cheque amount. On that premise, notice of motion was issued to the respondent and trial Court was directed to adjourn the proceedings beyond the date fixed by this Court. Liberty was

also granted to the petitioner to offer the payment to the complainant on the date fixed before the trial Court and the complainant was also at liberty to accept the same. The offer was made on 23.02.2016 but the same was not accepted by the respondent.

Learned counsel for the petitioners submitted that in view of guidelines framed in **Damodar S. Prabhu vs Sayed Babalal H. (SC) 2010 (5) SCC 663**, the compounding of offence can be made, if the accused offers the cheque amount at the first or second hearing of the case. If such an offer is made, compounding can be made by the trial Court without imposing any cost on the accused.

Learned counsel for the respondent however submitted that the respondent was entitled to a sum of Rs.11,81,464/- qua which adjudication was to be made by the trial Court.

I have considered the submissions made by learned

counsel for the parties.

The parameters as laid down in Damodar S. Prabhu's case (supra) strictly applies to this case inasmuch as that the petitioners have offered the cheque amount even before first appearance before the trial Court. The plea of the respondent vis-a-vis his entitlement to Rs.11,81,464/- has not been adjudicated by any competent Court as yet. The scope of proceedings in terms of Section 138 of the Negotiable Instruments Act, 1881, is only confined to the cheque amount and consequences of its dishonour on presentation.

After arguing this case for some time, learned counsel for the respondent ultimately agreed to the proposal of the petitioners.

In view thereof, this petition is disposed of with a direction that the parties or their duly authorized representatives will appear before the trial Court on the date fixed. Petitioners undertake to pay the cheque amount to the respondent on the

date fixed. Thereafter, follow up action will be done by the trial Court in terms of ratio laid down by Damodar S. Prabhu's case (supra).

Disposed of.

24.01.2017

jyoti Y.

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No