

CRM-M-5588-2016 (O&M)

Pankaj Kakkar
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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

(Sr.No.257)

CRM-M-5588-2016 (O&M)
Date of Decision:-17.01.2017.

Prem Kumar

.....Petitioner

V/S

Jagraj Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present : Mr. Rishav Jain, Advocate,
for the petitioner.

Mr. N.S. Boparai, Advocate,
for the respondent.

A.B. Chaudhari, J. (Oral)

Heard learned counsel for the rival parties.

There is the preliminary objection raised by the learned counsel for the respondent that the revision is maintainable against the order issuing process particularly in a case arising out of Section 138 of Negotiable Instruments Act. Learned counsel for the petitioner is heard on this preliminary objection who cited the decision in the case of **Prabhu Chawla Versus State of Rajasthan 2016 AIR (SC) 4245**. The said decision arose out of the offence under Section 228-A of the Indian Penal Code, 1860. The said decision is clearly distinguishable insofar as the present case is concerned and the present case is relates to bouncing of cheque. Learned counsel for the petitioner then submits that the petitioner did not sign the cheque at all and has concern with the transaction in question alleged by the

respondent-complainant.

Per contra, the learned counsel for the respondent-complainant then submitted that the petitioner closed one firm and opened another to defeat the claim. The entire issue is the matter of evidence and the present petition cannot be entertained. Without going into the merits of the matter, since there is the preliminary objection raised by the learned counsel for the respondent-farmers and having distinguished the case of Prabhu Chawla Versus State of Rajasthan 2016 AIR (SC) 4245, I find that the decision in the case of Urmila Devi Versus Yudhvair Singh, SCC 624, 2013(15) would come into play.

In the light of the said decision, though it is true that the remedy under Section 482 Cr.P.C. is not barred, in my opinion, the ordinary remedy to apply for revision in such type of cases is efficacious and I do not deem fit to entertain the present petition under Section 482 Cr.P.C. and instead I reserve liberty in favour of the petitioners to challenge the impugned order issuing accused summons before the revisional Court. If the revision is filed, the revisional Court may consider the petition for condonation of delay therein sympathetically also qua Section 14 of the Limitation Act i.e. the pendency of the present matter in this Court.

Disposed of.

January 17, 2017
pankaj

(A.B. CHAUDHARI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No