

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

CRM No.M-47659 of 2017 (O&M)
Date of Decision: December 21, 2017

Anil Chanana

...Petitioner

VERSUS

Jai Parkash

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.S.Rai, Senior Advocate with
Mr.Aashish Chopra and Ms.Sumiti Arora, Advocates for
for the petitioner.

Mr.Sahil Goel, Advocate
for the respondent.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against respondent Jai Parkash for quashing the summoning order dated 07.04.2017 passed by learned Judicial Magistrate Ist Class, Kaithal and complaint bearing registration No.1159 of 2016 filed by the respondent against the petitioner under Section 138 of the Negotiable Instruments Act.

From the record, I find that Jai Parkash filed a complaint against M/s Amira Pure Foods Pvt. Ltd through its Director A. Chanana and other accused including present petitioner under Section 138 of the Negotiable Instruments Act. It is mainly stated in the complaint that accused purchased paddy for a sum of ₹5,14,486/- on 30.09.2014,

amount of ₹5,52,936.50 along with interest @ 18% w.e.f of 01.04.2015 was due towards the accused in the account books of the complainant. The accused issued cheque bearing No.348720 dated 27.07.2016 for an amount of ₹5,16,486/- and cheque No.348843 dated 30.08.2016 of ₹36450/-, which on presentation, were received back dishonoured vide memo dated 24.10.2016 with the endorsement 'funds insufficient'.

Notice of motion was issued. Learned counsel for the respondent appeared and contested the petition.

At the time of argument, learned counsel for the petitioner only argued on one point that the petitioner had already resigned from the company w.e.f. 10.02.2006 as per Form No.32, copy of which is Annexure P-4 on the record and the articles were purchased later on in the year 2014 when he was not the Director. He further argued that the cheques were issued in August 2016, which was dishonoured in October 2016 but the petitioner had already resigned 10 years earlier from the accused-company.

Learned counsel for the respondent has not argued anything to rebut the arguments of learned counsel for the petitioner.

I have heard learned counsel for the parties and have gone through the record, especially Form No.32, which is annexed as Annexure P-4, where it has been shown that present petitioner had resigned as Director and Chairman of the company w.e.f 10.02.2006, which means that at the time of incurring the liability by the company in 2014 and at the time of issuance of cheques and dishonouring of the cheques, the present petitioner was not Director of the company and he had already resigned 10 years ago.

petitioner was not Director of the company at that time and he had already resigned 10 years before the commission of offence, therefore, the filing of complaint against the present petitioner is nothing but abuse of process of law.

Therefore, finding merit in the present petition, the same is allowed. The complaint bearing registration No.1159 of 2016 filed by the respondent against the petitioner under Section 138 of the Negotiable Instruments Act, summoning order dated 07.04.2017 passed by learned JMIC, Kaithal and all subsequent proceedings arising therefrom, are hereby quashed qua the petitioner only.

December 21, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No