

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

CRR No.1194 of 2017

Date of Decision: March 28, 2017

Dharam Pal

...Petitioner

Versus

Mohinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Shilak Ram Hooda, Advocate
for the petitioner.

FATEH DEEP SINGH, J.

The necessary facts emanating into this criminal revision by respondent-accused Dharam Pal is directed against the order dated 07.03.2017 passed by the learned Judicial Magistrate 1st Class, Sonapat, whereby, an application preferred by revisionist-accused for directing the complainant to submit his Pan Card stood dismissed.

The brief facts are that a complaint under Section 138 A Negotiable Instrument Act (in short, 'the Act') was filed by Mohinder Singh against Dharam Pal over a dispute of Rs.35,00,000/- alleged to have been given to the accused who had issued in acknowledgment of the same the cheque in question which stood dishonoured and after necessary formalities a complaint was filed in which accused was summoned and during the course of trial the present application was moved which stood dismissed by the trial Magistrate.

The contention of the learned counsel for the petitioner that the Pan Card was an essential document to prove the financial capacity and, therefore, application ought to be allowed to produce the same on records.

No doubt, the defence has right to plead financial incapacity of the complainant but that cannot be an over reach to the extent of getting personal particulars of a person by calling upon him to produce his Pan Card or details therein that too in the light of natural presumption that flows out provisions of Section 139 of the Negotiable Instrument Act and which is in favour of the complainant to the effect that the cheque was issued in discharge of legally recoverable debt. It is not the case as is sought to be put forth by the petitioner side in the submission of his counsel that the cheque in question was neither issued and the initial onus rests upon the complainant and subsequently shifts upon the defence. The petitioner has come up in revision which has a very limited scope to check the legality and propriety of an order. Learned counsel for the petitioner could not impress upon this Court how any of these necessities are involved in the present case. Thus, finding no merit the present revision petition stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

March 28, 2017
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No