

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.243

CRM-M-10532-2017

Date of decision : 18.07.2018

Virinder Sachdeva

..... Petitioner

VERSUS

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Rajiv Joshi, Advocate, for the petitioner.

Mr. J.S. Walia, Sr. DAG, Punjab.

Mr. Deepak Arora, Advocate, for respondent Nos.4 and 5.

SUDHIR MITTAL, J. (Oral)

The petitioner is aggrieved by the fact that a complaint dated 08.02.2017 (Annexure P1), was submitted before the police, but no FIR was registered thereafter.

As per the allegations in the complaint, a case under Section 138 Negotiable Instruments Act, 1881 (for short 'Act'), was filed against the private respondents by the petitioner on instructions from his client, namely, Anand Kumar Duggal, Proprietor Ashish Arts.

Notices were issued by the petitioner on behalf of his client under Section 138 of the Act.

The private respondents came to the office of the petitioner to settle the matter, but instead, they snatched the cheques issued by them and subject matter of notices under Section 138 of the Act and ran away.

Reply has been filed on behalf of the official respondents, according to which, there is a dispute regarding money between the parties and that the enquiry did not reveal that the cheques were snatched by the private respondents from the petitioner. In fact, the complaint has been

filed only because the private respondents refused to pay Rs.20,000/- to the petitioner.

Learned counsel for the private respondents submits that the story is completely improbable. Moreover, the petitioner has an alternative remedy available under Section 156 (3) Cr.P.C.

A perusal of the complaint dated 08.02.2017 (Annexure P1) reveals that a cognizable offence is alleged to have been committed by the private respondents. In such a situation, in view of the judgment in '**Lalita Kumari Vs. State of U.P., 2014(2), SCC 1**', the police is bound to register an FIR. In a preliminary enquiry, the police cannot return a finding that the incident alleged in the complaint, is motivated. The inaction on the part of the police, deserves to be deprecated.

The petition is allowed and respondent No.3 is directed to register an FIR on the basis of complaint dt. 08.02.2017 (Annexure P1) and to proceed further in accordance with law. The needful be done within a period of ten days from the date of receipt of a certified copy of this order.

(SUDHIR MITTAL)
JUDGE

18.07. 2018

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No