

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

- (1)

CRM-M-11362-2017
Date of decision:-25.4.2018
- Tarun Kumar

...Petitioner
- Versus
- Parvinder Kumar and another

...Respondents
- (2)

CRM-M-11443-2017
- Tarun Kumar

...Petitioner
- Versus
- Raj Kumari and another

...Respondents
- (3)

CRM-M-11444-2017
- Tarun Kumar

...Petitioner
- Versus
- Vipan Kumar and another

...Respondents
- (4)

CRM-M-11446-2017
- Tarun Kumar

...Petitioner
- Versus
- Parvinder Kumar and another

...Respondents
- (5)

CRM-M-11470-2017
- Tarun Kumar

...Petitioner
- Versus

Parvinder Kumar and another

...Respondents

CORAM : HON' BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Animesh Sharma, Advocate
for the petitioners.

Mr.Arvind Thakur, Advocate
for respondent No.1.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

Vide this order, I propose to dispose of five petitions i.e. **CRM-M-11362-2017, CRM-M-11443-2017, CRM-M-11444-2017 , CRM-M-11446-2017 and CRM-M-11470-2017** filed by petitioner – Tarun Kumar, seeking quashing of Criminal Complaint Nos. 275-2/2015, 274-2/2015, 272-2/2015, 276-2/2015 and 273-2/2015 dated 18.8.2015, summoning orders dated 8.9.2015 passed by Sub-Divisional Judicial Magistrate, Dabawali as well as orders dated 14.2.2017 passed by learned Additional Sessions Judge, Sirsa.

The basis for filing these petitions is that the complainant had allegedly a dispute with Company D.D. Township Ltd. but he has filed the complaints in question against Tarun Kumar, Director of the company without impleading the company as an accused, therefore, the complaints and summoning orders are not sustainable. Learned counsel for the petitioner has referred to citation in support of his said contention, i.e. **Aneeta Handa Versus M/s Godfather Travels and Tours Pvt. Ltd. 2012(2) RCR(Crl.) 854.**

Whereas according to learned counsel representing the

respondent No.1 - complainant the petitions are misconceived; the complainant had dealings with Tarun Kumar only, who had issued the cheques and the cheques in question are also signed by him; notices were issued to him, to which he did not reply, therefore, the complaints were filed in which the trial Magistrate has summoned the petitioner Tarun Kumar as accused to face trial, therefore, there is no ground to quash the complaints and summoning orders.

After hearing learned counsel for the parties and going through the record, I find that the petitions are bound to fail for several reasons, firstly, as per case of complainant, he had dealing with Tarun Kumar, who had issued the cheques under his signatures, which on presentation were received back uncashed due to insufficiency of funds. Notice was issued to him and since he did not make payment within stipulated period, as such complaints were filed where the trial Magistrate after recording preliminary evidence had summoned the accused and accused had put in appearance. Therefore, it cannot be said that the complainant had dealings with the company only but with Tarun Kumar its Director being not in the picture directly at any time. Furthermore, it is a matter of evidence whether the dealings had been there between the complainant and D.D. Township Ltd., New Delhi or between the complainant and Tarun Kumar, though in his capacity as Director of the said company. This point can be best determined during the trial and one cannot jump to any conclusion at this stage. The second reason affecting the present petitions is that petitioner had filed revision petitions against the order passed by Sub Divisional Judicial Magistrate, Dabawali summoning Tarun Kumar as an accused, which were filed

before the Court of Sessions and were assigned to Additional Sessions Judge, Sirsa, who vide order dated 14.2.2017 dismissed the same. There the petitioner had not taken any such objections. Now by way of filing the present petitions, he has raked up this issue. The petitioner cannot possibly be allowed to take objections in installments in such a form. Once he had filed a revision before Court of Sessions feeling aggrieved by the orders passed by Sub Divisional Judicial Magistrate, Dabawali summoning him as an accused in complaints under Section 138 of the Negotiable Instruments Act filed against him by complainant, he should have taken all the pleas available to him rather than taking some of the pleas and when being unsuccessful approaching the High Court coming up with new pleas. Section 482 Cr.P.C. deals with inherent powers of this Court providing that nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

The present petitions do not come within four corners of this provision and no interference with the impugned complaints and summoning orders is called for while exercising jurisdiction.

Finding no merits in the petitions, the same stand dismissed.

25.4.2018

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No