

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

201

CRM-M-29993-2012 (O&M)

Date of decision:08.05.2018

M/s Paul Merchants Limited

...Petitioner

Versus

M/s JIK Industries Ltd. and others

.... Respondents

(2)

CRM-M-29994-2012 (O&M)

M/s Paul Merchants Limited

...Petitioner

Versus

M/s JIK Industries Ltd. and others

.... Respondents

(3)

CRM-M-29995-2012 (O&M)

M/s Paul Merchants Limited

...Petitioner

Versus

M/s JIK Industries Ltd. and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. M.S.Nain, Advocate for the petitioner.

Mr. Rajesh Kumar Girdhar, Advocate for the respondents.

P.B. BAJANTHRI, J. (ORAL)

This order shall dispose of the aforementioned 3 petitions. However, for convenience and clarity, facts are being taken from CRM-M No. 29993 of 2012.

2. In this petition, petitioner has challenged the order dated 19.03.2012 (Annexure P-6) passed by the Additional Sessions Judge, Chandigarh. The respondents-M/s JIK Industries Ltd. and others have issued 16 cheques in favour of the petitioner arising out of the certain transactions among them. 11 cheques were stated to have been dishonoured. Consequently, petitioner filed a complaint and Judicial Magistrate Ist Class, Chandigarh order to summon the respondent to face trial on 22.09.2005 (Annexure P-2). Thereafter, respondents preferred a criminal revision and it was decided in favour of the respondents on 19.03.2012 (Annexure P-6). Hence the present criminal miscellaneous.

3. Learned counsel for the petitioner submitted that inadvertently, it was stated that cheques were presented at Mumbai instead of Chandigarh. Such error has not been carried out while deciding the complaint. Necessary application was made only as and when criminal revision was pending before the Additional Sessions Judge, Chandigarh and it is still pending whereas the Additional Sessions Judge, Chandigarh proceed to decide the criminal revision on 19.03.2012 with reference to statement made by the petitioner to the extent that cheques were presented at Mumbai. Consequently, it is held that court has no jurisdiction. If the factual aspect is taken into consideration for the purpose of deciding the petitioner's

complaint, it is evident that cheques were presented at Chandigarh. Merely a clerical error cannot be taken into consideration for the purpose of deciding the issue relating to jurisdiction of the court. To that extent Additional Sessions Judge, Chandigarh has erred in allowing the criminal revision filed by the respondents.

4. Per contra, learned counsel for the respondents submitted that as long as necessary amendment is not carried out with reference to complaint before deciding the same there is no infirmity in the criminal revision.

5. Heard the learned counsel for the parties.

6. Crux of the matter in the present case is that there was transaction between the petitioner and the respondents for which 11 cheques were dishonoured. Consequently, complaint was filed. Only one error committed by the petitioner is that he had stated that cheques were presented at Mumbai instead of Chandigarh. Even though cheques were presented at Chandigarh. It is only a clerical or technical error i.e. required to be taken into consideration for the purpose of assigning jurisdiction at Chandigarh. Anyhow, formal amendment is required in respect of deciding the petitioner's complaint before the Chief Judicial Magistrate, Chandigarh and it is pending consideration. In view of these facts and circumstances, decision dated 19.03.2012 passed in Criminal Revision No. 34 of 2010 & 30.07.2010 is set aside. The Chief Judicial Magistrate, Chandigarh is hereby directed to proceed with the matter in accordance with law. Parties are hereby directed to co-operate before the CJM, Chandigarh in deciding the matter.

7. With the above observation, petition stands disposed of.

08.05.2018

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No