

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

**Criminal Misc. No.36546 of 2013 (O&M)
Date of Decision: August 24, 2018**

Ruby

.....PETITIONER(s).

VERSUS

Asha Rani

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Amit Dhawan, Advocate
for the petitioner (s).

None for the respondent.

SURINDER GUPTA, J.

The petitioner seeks quashing of the complaint titled '*Smt. Asha Rani Vs. Ruby*' filed under Section 138 of Negotiable Instruments Act, 1881 and the summoning order dated 30.11.2011 passed by Judicial Magistrate 1st Class, Nakodar.

As per the complainant, petitioner issued a cheque bearing No.369928 dated 19.04.2011 of ₹20,000/- drawn on Oriental Bank of Commerce Branch Nakodar in discharge of his liability towards the complainant which on presentation was dishonoured.

After the summoning of the petitioner, he moved an application to deposit the cheque amount, which was paid to the complainant on 07.11.2012. The complainant accepted the payment of cheque amount under protest but insisted on pursuing the complaint.

Thereafter, the petitioner-accused moved application seeking compounding of offence and his discharge. Complainant filed reply, submitting that she had lent ₹2 lakhs to the accused, which was due towards him, as such, the matter could not be compounded on payment of ₹20,000/- out of total loan amount.

Reply was filed on 14.12.2012. It was after filing of the reply, the petitioner has filed this petition on 27.10.2013 seeking quashing of the complaint and summoning order.

Learned counsel for the petitioner has argued that the petitioner has deposited the cheque amount, as such, complaint along with all consequential proceedings, is liable to be quashed. The application seeking compounding of the offence is pending and the trial Court has not passed any order on this application so far. He has further argued that statutory notice served before filing of the complaint is also bad in the eyes of law as the complainant along with the cheque amount, had also sought interest of the cheque amount.

I have given a careful thought to the submission of learned counsel for the petitioner but find no substance therein so as to allow the relief of quashing of complaint filed by respondent under Section 138 of Negotiable Instruments Act. The allegations in the complaint are almost admitted as the petitioner has paid the cheque amount and has also sought the compensation. Once the cheque amount has been paid, accused has liberty to move the application seeking compounding of the offence and the trial Court may allow the application subject to the terms with regard to the payment of cheque amount, costs, interest etc. as it deem fit. The complaint

can not be quashed for the reason that cheque amount has been paid or the statutory notice issued before filing of complaint has also sought payment of interest along with cheque amount. The petitioner had already moved application seeking compounding of offence on which as per learned counsel for the petitioner no order has been passed by the trial Court, so far. I find no merits in this petition and the same is dismissed with direction to the trial Court to pass order on the application filed by petitioner seeking compounding of offence, in accordance with law.

Copy of this order be conveyed to the trial Court.

August 24, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***