

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

CRM-M No.34307 of 2017 (O&M)

Date of decision :21.09.2018

Mayur Garg

..... Petitioner

Versus

Marvel Limited

....Respondent

CORAM : HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr.Amit Singla, Advocate for the petitioner.

None for the respondent.

RAMENDRA JAIN, J. (Oral)

Prayer in the instant petition under Section 482 Cr.P.C. has been made for quashing criminal complaint No. 2276-I dated 30.11.2016 titled Marvel Limited vs M/s Ganpati Traders, under Section 138 of the Negotiable Instruments Act and summoning order dated 15.12.2016 (Annexure P-6) pending before the Judicial Magistrate 1st Class, Hisar and all subsequent proceedings arising therefrom.

2. Learned counsel contends that the complaint filed by the respondent against the petitioner is not maintainable in view of the fact that the petitioner is not signatory of the cheque in question. The same was issued by a proprietorship firm M/s Ganpati Traders, Madhuban Vihar, Gali No. 13, ITC Road, Saharanpur (UP) of whom, father of the petitioner namely Rohtash Garg is the proprietor. Petitioner has illegally been arrayed as respondent No.3 in the complaint on false pretext that he was managing the

affairs of the aforesaid proprietorship firm which is without any basis or substance.

Having gone through the submissions of learned counsel, this Court finds merit in petition for the following reasons to follow:-

- 1. The respondent was served notice of this petition for 25.10.2017. However, despite its effective service and adjourning the case for six times, the respondent has not appeared and chosen not to contest the petition. Therefore, it can safely be inferred that respondent shall have no grouse/complaint against the petitioner, in case, his complaint against the petitioner is quashed.
- 2. The petitioner is not a signatory to the cheque in question. Therefore, it can safely be held that he has unnecessary been arrayed as accused by the respondent in his complaint under Section 138 of the Negotiable Instruments Act just to put undue pressure upon him and his father.
- 3. No evidence whatsoever was produced by respondent before trial Court in preliminary evidence to show that petitioner was managing the affairs of the firm M/s Ganpati Traders, which had allegedly issued the cheque in favour of the respondent.
- 4. The impugned order of summoning the petitioner has been passed in a mechanical manner by the trial Court without making inquiry under Section 202 Cr.P.C. qua role of the petitioner.

The petition stands allowed.

September 21, 2018
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No