

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123

CRM-M-43593-2018

Date of Decision:04.10.2018

Sh. Rajiv Verma

.....Petitioner

Versus

Smt. Kamlesh Sethi

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Hitesh Ghai, Advocate,
for the petitioner.

HARI PAL VERMA, J.(Oral)

Petitioner has filed the present petition under Section 482 Cr.P.C. for quashing of order dated 20.07.2017 passed by Judicial Magistrate 1st Class, Ludhiana, whereby he has been summoned in a criminal complaint filed under Section 138 of the Negotiable Instruments Act, 1881 (for short “the N.I. Act”). Challenge has also been laid down to the order dated 30.07.2018, whereby application filed by the respondent-complainant to re-arrange the judicial file, was allowed.

Briefly stated that the respondent had filed a complaint under Section 138 of the N.I. Act. In the said complaint, petitioner was summoned to face trial under Section 138 of the N.I. Act vide order dated 20.07.2017. During the pendency of the complaint, the respondent moved an application before the trial Court for issuance of appropriate directions to criminal Ahlmad to re-arrange the judicial file. In the said application, it has been pleaded that the complainant has filed two complaints under

Section 138 of the N.I. Act, titled as “Kamlesh Sethi Versus Rajiv Verma”

and “Kamlesh Sethi Versus Navneet Verma” and both the complaints were pending before the same Court. In both the cases, trial Court had issued summons to the petitioner-accused. However, during the pendency of proceedings, the trial Court apprised the complainant as regards the documents attached with the file i.e. cheque, memo, legal notice and the postal receipts, which did not correspond with the complaint as attached on the judicial file. On inquiry, it came to the notice of the complainant that the documents exhibited along with the affidavit tendered by the complainant in case titled as “Kamlesh Sethi Versus Rajiv Verma”, were inadvertently/wrongly attached with the file titled as “Kamlesh Sethi Versus Navneet Verma” by the criminal Ahlmad/Court staff. The complainant had appended all the documents as well as affidavit with the judicial file and it is on that basis the trial Court had summoned the accused after verifying all the documents including the cheque, memo, legal notice and postal receipt etc.

Finding substance in the aforesaid complaint, learned trial Court vide impugned order dated 30.07.2018 had allowed the application and the Ahlmad was directed to re-arrange both the cases, to put correct documents on both the files and also to submit a detailed report to the Court.

Aggrieved against the order dated 30.07.2018, petitioner has filed the present petition.

Learned counsel for the petitioner has argued that the trial Court had summoned the petitioner in the complaint vide order dated 20.07.2017. But the complainant has failed to make out a case as the cheque exhibited by the respondent-complainant does not bear the signatures of the petitioner (accused). Therefore, summoning order is bad.

He has further argued that the complainant has filed two complaints against Rajiv Verma and Navneet Verma and both the complaints were pending before the same Court. The complainant came to know about that fact that the documents attached with the file i.e. cheque, memo, legal notice and the postal receipts did not correspond with the complaint and therefore, application dated 03.02.2018 was filed. The said application was opposed by the petitioner and an objection therein was taken on its maintainability. But still the trial Court had allowed the said application.

I have heard learned counsel for the petitioner.

This Court finds that the learned trial Court has just ordered to set the record right. Otherwise, it is a mistake at the level of the office of the trial Court, wherein certain papers were mixed up in the file of connected complaints. The fact remains that both the complaints were filed by the complainant under Section 138 of the N.I. Act. The trial Court has merely directed the Ahlmad to re-arrange the paper-book, which could not have caused any prejudice to the petitioner in any manner. Therefore, this Court does not find any illegality in the order 30.07.2018 passed by learned Judicial Magistrate 1st Class, Ludhiana, whereby the Ahlmad was directed to re-arrange the files and to put the correct documents on both the files, which was an error and it can be rectified at any stage. For having issued cheque in favour of respondent/complainant, this Court does not find any illegality in the summoning order. No ground for interference is made out.

Dismissed.

October 04, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No