

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

CRM-M-45830-2017

Date of decision:-25.4.2018

Surinder Madaan

...Petitioner

Versus

M/s AGG Exports

...Respondent

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

Present : Mr.Rakesh Bhatia, Advocate
for the petitioner.

Mr.Viren Jain, Advocate
for the respondent.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. seeking quashing of complaint under Section 138 of the Negotiable Instruments Act and summoning order passed in the said complaint has been filed by petitioner – Surinder Madaan, who has been summoned as an accused in the said complaint.

According to the petitioner, the legal issue involved in the present petition is whether the evidence of complainant through power of attorney holder based upon which the summoning order is issued is contrary to law as laid down by the Apex Court in **A.C. Narayanan**

Versus State of Maharashtra and another 2013(4) R.C.R.(Crl.) 306.

The grouse of the petitioner is that the affidavit of special power of attorney Sh.Shiv Darshan Verma does not state that he was witness to the transaction, in that way, he was not having personal knowledge with regard to transaction, therefore, he could not be examined as a witness in view of ratio of authority A.C. Narayanan's case (supra).

Whereas learned counsel for the complainant while contesting the contentions of learned counsel for the petitioner has contended that when statement of Sh.Shiv Darshan Verma was recorded as CW1, copy Annexure P-5, while tendering into his affidavit duly sworn Ex.CA along with document Ex.C1 to Ex.C10, he had categorically stated that he is fully aware of the facts and circumstances of the present complaint and all the incidents of the present case had taken place in front of him and he has personal knowledge with regard to the same, therefore, it cannot be said that Sh.Shiv Darshan Verma, Special Attorney of Sh.Amresh Aggarwal, partner of M/S AGG Exports; the complainant concern did not have a personal knowledge of the facts of the case, therefore, the authority referred to by learned counsel for the petitioner does not help him in any manner.

After hearing the rival contentions of the parties, I find that the contentions of learned counsel for the petitioner are not borne out from the record rather they stand contradicted. One more fact to be taken into consideration is that the petitioner had filed a similar petitions earlier seeking quashing of summoning order, that petitions being CRM-M-12938 of 2016, CRM-M-12974 of 2016 and CRM-M-12975 of 2016 and those petition were dismissed. Now he cannot file a fresh one taking

up a new ground. In para No.10 of the petition, the petitioner has made a passing reference of filing the similar petition earlier stating that it was on different grounds. But then the petitioner should have taken all the grounds available to him while filing present petition rather than taking the pleas in installments. If the contention of learned counsel for the petitioner is accepted, then he may come up with third, fourth and fifth petition taking different grounds, which may or may not be available to him.

Therefore, the present petition is doomed for failure and is dismissed accordingly.

25.4.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No