

128.

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

CRM-M-47440-2018

Date of decision:29.10.2018.

SURINDER SINGH

... Petitioner

versus

MOHD. NAZEER @ NAZEER MOHD.

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

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

HARI PAL VERMA, J.(Oral)

Prayer in the present petition filed under Section 482 Cr.P.C. is for quashing of complaint No.447/2018, dated 29.05.2018 (Annexure P-3) as well as order of summoning dated 29.05.2018 (Annexure P-4) passed in a complaint filed under Section 138 of Negotiable Instruments Act.

Learned counsel for the petitioner states that the petitioner had got a DDR registered bearing No.67 dated 24.10.2013 with Police Station Sector 26, Chandigarh (Annexure P-2) wherein he has stated that on 24.10.2013 when he was going to Shop No.74, Grain Market Sector 26, Chandigarh, on the way, his bag fell down somewhere which contained his cheque book of State Bank of Patiala, PNB, which belonged to one Gandhi Paneer Bhandar and Gandhi Diary, one cheque of Axis Bank, Mani Majra, Voter Card, Photograph and 5 stamp papers of Rs.100/- each. He tried to search these documents, but could not find them. He further states that now the complainant has filed a complaint under Section 138 of Negotiable

dated 02.05.2018 i.e. after a period of 5 years from the date when the cheque was lost.

In the aforesaid complaint, the petitioner was summoned to face trial and on the basis of statement of the serving official regarding execution of proclamation, the proclamation proceedings have been started. Though the case has been adjourned to 05.11.2018 for the appearance of the petitioner, learned counsel for the petitioner states that once the DDR had been lodged, there is no question of issuance of cheque by the petitioner. He states that certain papers were lost as stated in the DDR, the petitioner has no business dealing with the complainant in any manner and the complainant has misused the lost cheque of the petitioner.

Heard.

Considering the fact that these disputed questions are to be looked into by the trial Court and the trial Court has summoned the petitioner in the case, though he has a remedy to challenge that order by way of revision but since the trial is at the initial stage, in case the petitioner appears before the trial Court on or before the date fixed i.e. 05.11.2018, the trial Court shall not proceed with the proclamation proceedings. So far as the prayer of the petitioner for grant of exemption is concerned, he is at liberty to make an appropriate application before the trial Court which the trial Court would no doubt consider in accordance with law.

Disposed of.

(HARI PAL VERMA)
JUDGE

29.10.2018
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No