

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.203

CRM-M-946-2014

Date of decision : 02.08.2018

Rajnish Pandey and another

..... Petitioners

VERSUS

Hari Om

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. R.S. Madan, Advocate, for the petitioners.

None for the respondent.

SUDHIR MITTAL, J. (Oral)

The petitioners are aggrieved of the complaint No.221 dated 17.12.2012 (Annexure P1), filed under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') as well as summoning order dated 25.10.2013 (Annexure P2).

A perusal of the complaint dated 17.12.2012, shows that a cheque amounting to Rs.20,000/- was issued by Gammon India Limited, in favour of the complainant, which has allegedly been dishonoured. A certified copy of the cheque (Ext.C1) has been placed on record and it also establishes that the same was issued for Gammon India Limited-T&D Business Imprest Account.

Learned counsel for the petitioners submits that the petitioners are employees of M/s Adani Power Limited and have nothing to do with Gammon India Limited. Reference is made to the reply to the notice under Section 138 of the Act (Ext. C9). A specific allegation has also been made in the present petition and the same has not been denied by the respondent-complainant as no reply has been filed on his behalf. Thus, the submission is that one of the basic ingredients of Section 138 of the Act, i.e. the cheque

should have been issued by a person, who maintains a bank account for payment of certain amount of money, inasmuch as, the petitioners are neither the signatories of the cheque nor they have anything to do with Gammon India Limited.

Thus, filing of the complaint and issuance of the summoning orders are abuse of the process of law. The respondent is not represented. The order-sheet shows that he was not represented on the last eight dates of hearing as well. It is, thus, apparent that he has no interest in this matter.

In view of the fact that a basic ingredient of Section 138 of the Act is missing in this case, the complaint cannot be permitted to continue against the petitioners.

Accordingly, the petition is allowed and complaint dated 17.12.2012 (Annexure P1) as well as the summoning order dated 25.10.2013 (Annexure P2), are hereby quashed.

(SUDHIR MITTAL)
JUDGE

02.08.2018

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No