

CRM-M-52295 of 2018

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

CRM-M-52295 of 2018
Date of Decision: 28.11.2018

Suresh Pandari Nathan

....Petitioner

Versus

M/s Sunny Enterprises and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Sanjay Verma, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C. prayer has been made for quashing order dated 15.11.2018 of the learned Judicial Magistrate Ist Class, Gurugram, whereby application for dropping of summons to officials of Enforcement Directorate as witness was allowed.

In Nutshell, during trial, upon application of the petitioner, who is facing trial under Section 138 of the Negotiable Instruments Act (for short the 'Act') in a complaint filed by respondent No.1, some officials of the Enforcement Directorate were summoned. Consequently, Roopesh Kumar, Assistant Director, Enforcement Directorate, Chandigarh, appeared and moved application for cancellation of summoning of the officials of the Enforcement Directorate as witnesses. Trial Court vide impugned order allowed the said application.

Learned counsel for the petitioner *inter alia* contends that the trial Court failed to appreciate that Section 41 of the Prevention of Money-

Laundring Act, 2002 is not applicable in the instant case as the same pertains to Section 138 of the Act. Examination of official witnesses of the

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Enforcement Directorate was very much necessary to prove the transaction between the parties.

Having given anxious consideration to the submissions made by learned counsel for the petitioner, this Court finds the instant petition completely devoid of any merit for the reasons to follow.

Petitioner is facing trial under Section 138 of the Act for bouncing of his cheque, which he issued in favour of respondent No.1. Petitioner is not denying his signature on the cheque in question.

Plea of the petitioner that cheque in question was issued as a security now-a-days has lost significance inasmuch as in every case, by and large, this plea is taken. Even otherwise, petitioner can lead evidence to the above-said effect in his defence. Assistance of Enforcement Directorate is not needed at all from any angle inasmuch as, it was not witness to the transaction in between petitioner and respondent No.1.

Enquiry by Enforcement Directorate against the petitioner or the parties with whom the petitioner had transacted is altogether a different matter, facts of which cannot be permitted to be introduced in the instant case inasmuch as they would only create confusion.

I have gone through the impugned order and find no illegality or perversity in the same.

Dismissed.

November 28, 2018
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No