

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

Crl. Misc. No.M-6798 of 2018

Date of Decision:- 26.2.2018

Raj Kumar Devirana

....Petitioner

vs.

Akash Agro Fresh and another

....Respondents

BEFORE :- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Sandeep Chopra, Advocate,
for the petitioner.

SUDHIR MITTAL, J. (Oral)

This petition has been filed under Section 482 Cr.P.C. for quashing of summoning order dated 30.11.2016 passed by the trial Court, order dated 30.11.2017 passed by the Revisional Court as well as criminal complaint No.4256 of 2016 titled as 'Akash Agro Fresh and another vs. Raj Kumar Devirana, under Section 138 of the Negotiable Instruments Act, 1881.

Learned counsel for the petitioner contends that as per the complaint, the business of trading of packing material for apples was financed by the Firm i.e. Akash Agro Fresh. However, affidavit dated 23.9.2016, being relied upon by the complainant, states that the said trade had been financed by Mr. Akashdeep Garg son of Sh. Dev Raj Garg (partner of the firm). He, thus, contends that there is no legally enforceable debt due from the petitioner to the complainant i.e. the firm Akash Agro Fresh.

I am afraid, this contention of the learned counsel can not be accepted. It is not in dispute that the petitioner issued the cheque in dispute and the same has been dishonoured. Thus, there is a presumption of legally enforceable debt in favour of the complainant, which has to be displaced by the petitioner during the trial.

Whether a legally enforceable debt exists as on date, cannot be a ground for

quashing of complaint as well as the summoning order.

In view of the above, there is no merit in this petition and the same is hereby dismissed.

February 26, 2018
poonam

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned **Yes**

Whether reportable **No**