

Harwinder Singh

.....Petitioner

versus

UCO Bank

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. M.L. Saggar, Sr. Advocate with
Ms. Veenu Garg, Advocate
for the petitioner

Sudhir Mittal, J. (Oral)

The petitioner seeks quashing of CIS No. 258-2016 dated 21.04.2016 titled as 'UCO Bank vs. Harwinder Singh' (Annexure P-2) as well as summoning order dated 05.05.2016 (Annexure P-4).

The petitioner has allegedly taken a loan and has executed a pro-note dated 17.09.2013. Prior thereto father of the petitioner had mortgaged 3 kanals 10 marlas of his land on 30.07.2013 for securing the loan. The petitioner, having committed default in payments, a suit for recovery of Rs. 6,08,304/- has been filed by the Bank, which is pending adjudication. Before the suit was filed a cheque dated 25.12.2014 issued by the petitioner was presented but the same was dishonored leading to filing of the complaint under Section 138 of the Negotiable Instruments Act, 1881. Subsequently, another cheque dated 21.03.2016 has been presented by the bank and the same has also been dishonored, leading to filing of the aforementioned complaint and summoning of the petitioner.

Learned senior counsel for the petitioner submits that a perusal of the cheque dated 21.03.2016 reveals that its number is 840862, which is the next successive number following 840861, the number of cheque dated 21.12.2014.

Thus, the Bank had presented the cheque dated 21.03.2016 in its possession by way of security and the same has been misused.

For quashing of the complaint and summoning order, I can not go into the disputed questions of fact. Whether the cheque dated 21.03.2016 was issued as a security cheque or not is a matter of evidence and can be gone into only by the trial Court after the parties have led evidence. In case the petitioner feels that a security cheque has been misutilized by the respondent-Bank, he would be at liberty to lead evidence in this regard and if the law permits to seek discharge at the appropriate stage.

With the aforementioned observations, the petition is dismissed.

December 13, 2018

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[SUDHIR MITTAL]

JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No