

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRA-AS-40 of 2015 (O&M)

Date of decision: 02.04.2019

M/s Sukhma Sons & Associates

..... Appellant

Versus

M/s Third World Enterprises Inc. and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Rajesh K. Kataria, Advocate
for the appellant.

Mr. Arun Luthra, Advocate
for the respondents.

ANIL KSHETARPAL, J. (ORAL)

Learned trial Court while relying upon a judgment passed by the Hon'ble Supreme Court in Sadanandan Bhadran Vs. Madhavan Sunil Kumar, 1998(4) RCR (Criminal) 90, dismissed the complaint filed under Sections 138/141/142 of Negotiable Instruments Act, 1881 read with Sections 420 and 422 of the Indian Penal Code on the ground that once the cheque has been dishonoured and a notice has been issued, the complainant had no jurisdiction to once again present the cheque in the bank, on being dishonoured second time, issue a fresh notice and on failure to comply, file a complaint under Section 138 of the Negotiable Instruments Act, 1881.

Learned counsel for the appellant has pointed out that the aforesaid judgment has been overruled in a subsequent judgment passed by the Hon'ble Supreme Court in the case of MSR Leathers Vs. S. Palaniappan and another, 2012(4) RCR (Civil) 485. The Hon'ble Supreme Court in a

detailed judgment has held that such complaint is maintainable. The relevant discussion is in Paras 20, 21, 22 and 23.

For the detailed reasons recorded in the aforesaid judgment passed by the Hon'ble Supreme Court, the judgment dated 04.06.2012 is set aside.

The case is remitted back to the Judicial Magistrate 1st Class, Gurgaon with direction to decide the complaint on merits.

Appeal is allowed.

Parties through counsel are directed to appear before the Court of Judicial Magistrate 1st Class on 24.04.2019.

02.04.2019

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No