

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

CRM-M-7073-2019

Date of Decision: 17.12.2019

M/s Cogent Enterprises Limited and another

...Petitioners

Versus

Sonender

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ankur Bansal, Advocate for the petitioners.
Mr. Sanjay Vashisth, Advocate for the respondent.

ANIL KSHETARPAL, J.

Through this petition filed under Section 482 of the Code of Criminal Procedure, quashing of Criminal Complaint No.247/17 dated 21.01.2017 titled as “Sonender Vs M/s Cogent Enterprises and others” filed under Section 138 of the Negotiable Instruments Act, 1881 and summoning orders of the petitioners, have been sought.

Learned counsel for the petitioners contends that cheque dated 17.11.2016 (Annexure P-5) was issued by petitioner No.2 in his individual account and therefore petitioner No.1, the company, could not be summoned as an accused. He further contends that even proceedings against petitioner No.2 i.e. Girimon P.T. Director M/s Cogent Enterprises Limited are not maintainable as notice under Section 138 of the Negotiable Instruments Act, 1881 was never issued to petitioner No.2 before filing of the complaint.

A bare look at Annexure P-2, the cheque, it is apparent that the aforesaid cheque has been issued from Account No.059501501577 drawn on ICICI Bank, Lonavala Branch, Mumbai.

Annexure P-6, the notice, sent before filing the complaint, it is clear that it was addressed to the Company and the petitioner No.2. However, learned counsel for the petitioners contends that only one copy of the notice was sent to the address of the company and not to address of petitioner No.2.

On reading of the order issuing process (summoning), it is apparent that the learned Judicial Magistrate 1st Class, Faridabad did not consider these aspects of the matter.

This Court at this stage is not in a position to record any concrete finding.

Keeping in view the aforesaid facts, the order of summoning dated 23.01.2017 is set aside and Judicial Magistrate 1st Class is requested to pass a fresh order after taking into consideration the facts noticed above.

The complainant is directed to appear before the concerned court on 30.12.2019.

In view of the above, the present petition stands disposed of.

17.12.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No