

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-7753 of 2019

Date of Decision: 22.07.2019

Kamaljit Singh

... Petitioner(s)

Versus

State of Punjab and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

Present: None for the petitioner(s).

Shekher Dhawan, J.

Present petition under Section 482 Cr.P.C. for quashing of complaint bearing No. ACT/3731/18 dated 25.06.2018 (Annexure P1) under Section 138 of the Negotiable Instruments Act, 1881 and summoning order dated 31.08.2018 (Annexure P2), passed by the learned Judicial Magistrate Ist Class, Jalandhar, whereby petitioner was ordered to face trial.

Despite pass over, there is no representation on behalf of the petitioner. On previous dates i.e. 07.05.2019, 27.03.2019 & 20.02.2019, petitioner's counsel did not argue the matter. Otherwise also, petition under Section 482 Cr.P.C. is not maintainable as the impugned summoning order dated 31.08.2018 was passed by the learned Judicial Magistrate Ist Class, Jalandhar and petitioner has the remedy available under Section 397 Cr.P.C., which he has not availed. It is well established principle of law that inherent power conferred on this Court under Section 482 Cr.P.C. has to be exercised sparingly with circumspection and in rare cases and that too to correct patent

illegalities of when some miscarriage of justice is done. The most common

case where inherent jurisdiction is generally exercised is where criminal proceedings are initiated illegally, vexatiously or without jurisdiction and where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute the alleged offence and make out a case against the petitioner. Such a view was taken by the Hon`ble Apex Court in *Union of India Vs. BajanLal*, AIR 1992 SC 604. However, in the present case, if the contents of the complaint and the material available on the file are taken into consideration in the light of the above observations, it is not a case where *prima facie* case is made out or there is sufficient material available on the file to quash the present complaint. The petitioner is at liberty to take all the above mentioned pleas in a revision petition under Section 397 Cr.P.C. and this is not a case where present petition should be entertained exercising the inherent powers under Section 482 Cr.P.C.

Resultantly, present petition stands dismissed. Any observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and shall have no bearing on trial.

(Shekher Dhawan)
Judge

July 22, 2019
“DK”

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No