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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-19872-2018[O&M]

Date of Decision : July 31, 2019

Reena Dewan

.... Petitioner

Versus

Umesh Kumar

.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr. Manu K. Bhandari, Advocate,
for the petitioner.

Mr. Sunill Kumar Bawa, Advocate,
for the respondent.

SHEKHER DHAWAN, J.

Present petition under Section 482 of the Code of Criminal Procedure is for quashing of Complaint No. 64 of 2016 dated 29.1.2015/10.8.2016 (Annexure P/4) under Section 420 IPC and summoning order dated 9.12.2016 (Annexure P/9) passed by learned Judicial Magistrate Ist Class, Panchkula and the order dated 31.10.2017 (Annexure P/11) passed by learned Additional Sessions Judge, Panchkula whereby revision petition filed by the petitioner was dismissed.

2. Facts relevant for the purpose of decision of the present petition; that both the parties had business dealings and in that process, complainant had issued 19 cheques and out of those, 14 cheques were bounced. Respondent filed various complaints under Section 138 of the

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Negotiable Instruments Act, 1881 (for short, “**the Act**”). The details of complaints filed against the petitioner alongwith number of cheques involved is as under:-

Case No.	Title of Case	Cheque Nos.
9265/2014	Umesh Vs. Elegance	719011/15.7.2014 719012/25.7.2014 719013/15.8.2014 for Rs.25,000/- each
9266/2014	Umesh Vs. Elegance	719017/15.10.2014 for Rs.25,000/-
9267/2014	Umesh Vs. Elegance	719018/25.10.2014 for Rs.25,000/-
9268/2014	Umesh Vs. Elegance	719014/25.8.2014 719015/15.9.2014 719016/25.9.2014 for Rs.25,000/- each.
1873/2015	Umesh Vs. Elegance	719025/15.02.2015 for Rs.30,500/-.
1872/2015	Umesh Vs. Elegance	719023/15.01.2015 719024/25.1.2015 for Rs.25,000/- each.
6861/2015	Umesh Vs. R.D.Creations	359028 for Rs.50,000/-.
6862/2015	Umesh Vs. Elegance	303712/22.7.2014 for Rs.25,000/-.
1148/2015	Umesh Vs. Elegance	719020/25.11.2014 for Rs.25,000/-. 719022/25.12.2014 for Rs.25,000/-.
1146/2015	Umesh Vs. Elegance	719019/15.11.2014 for Rs.25,000/-. 719021/15.12.2014 for Rs.25,000/-.

3. Respondent filed complaint against the petitioner and as per provisions of Section 156(3) Cr.P.C., FIR was registered and after investigation, the allegations were found to be false. Thereafter the

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complainant filed a private complaint and in that, respondent made reference to two cheques allegedly issued by the petitioner bearing No. 359028 for Rs.50,000/- and another cheque bearing No. 303712 for Rs.25,000/- and for that purpose, separate complaints under Section 138 of the Act was filed.

4. During the pendency of 10 complaints having been filed by respondent, a compromise was effected between the parties on 21.9.2016 and against the outstanding amount of Rs.4,58,483/- which was due from the petitioner, an amount of Rs. 3,50,000/- as full and final settlement was accepted and the respondent made a statement accordingly in the Court and all the 10 cases were withdrawn.

5. After having entered into the settlement, respondent filed a complaint and learned trial Judge passed order dated 9.12.2016 (Annexure P/9) for summoning of the petitioner under Section 420 IPC. The petitioner preferred petition under Section 397 Cr.P.C. before the Court of Sessions, but the same was rejected by learned Additional Sessions Judge, Panchkula without due consideration of facts and as such, summoning order and the order passed by learned Additional Sessions Judge are liable to be set-aside.

6. In the reply, having been filed, the facts regarding filing of 10 complaints by respondent was admitted. However, the respondent came with the plea that there were 19 cheques and the settlement was with regard to 17 cheques. The two cheques, bearing no. 719009 and 719010, amounting to Rs.25,000/- each, are still pending and there was no compromise in that regard and it was prayed that the petition is liable to be dismissed.

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7. Having considered the submissions made by learned counsel for the parties and appraisal of record of this case file, this Court is of the considered view that compromise was effected between the parties in respect of all the 10 complaints on 21.9.2016 and thereafter, the summoning order was passed on 9.12.2016 without considering the above facts. It is established on record that learned trial Judge has not considered all the material facts involved in this case including previous litigation between the parties and the settlement having been arrived at between the parties before the Court and statement of the respondent. Learned Additional Sessions Judge has also not considered these facts while passing the order dated 31.10.2017. The continuation of proceedings on the basis of such order shall be complete misuse of the process of the Court.

8. In view of the above, the present petition is accepted and the Complaint No. 64 of 2016 dated 29.1.2015/10.8.2016 (Annexure P/4) under Section 420 IPC and summoning order dated 9.12.2016 (Annexure P/9) passed by learned Judicial Magistrate Ist Class, Panchkula and the order dated 31.10.2017 (Annexure P/11) passed by learned Additional Sessions Judge, Panchkula stand quashed.

(SHEKHER DHAWAN)
JUDGE

July 31, 2019

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes