

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH	
202-4 cases	
	CRM-M-23427-2015 (O & M) Date of Decision:15.05.2019
JASMEET SINGH & ANR	...PETITIONERS
VERSUS	
DEVINDER SINGH	...RESPONDENT
2.	CRM-M-42483-2015 (O & M)
JASMEET SINGH & ANR	...PETITIONERS
VERSUS	
DEVENDER SINGH	...RESPONDENT
3.	CRM-M-42581-2015 (O & M)
JASMEET SINGH & ANR	...PETITIONERS
VERSUS	
DEVENDER SINGH	...RESPONDENT
4.	CRM-M-42607-2015 (O & M)
JASMEET SINGH & ANR	...PETITIONERS
VERSUS	
M/S SANT TANKERS	...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Aalok Jagga, Advocate for the petitioners.

Mr. Abhiraj Singh Baweja, Advocate
for the respondent(s).

MANOJ BAJAJ, J.

Petitioners have filed these petitions under Section 482 Cr.P.C. for quashing of four different criminal complaints i.e. Complaint bearing Nos.3102/2015, 1450/2015, 1449/2015 and 1448/2015 under Section 138 of the Negotiable Instruments Act, 1881 (Annexure P-1) as well as the summoning order dated 10.04.2015 (Annexure P-2). Therefore, all these petitions are being decided together, by this common order.

These petitions were filed on the ground that the amount involved in the cheque already stood paid by way of cash to the complainant. However, without prejudice to the rights, the accused had offered to pay the cheque amount to the respondents subject to reconciliations of accounts. It was further pleaded that the statutory notice under the Act was not served upon the petitioners. Reference is made to Para 7 of the complaint, wherein it is mentioned that the accused have refused to take the notice. According to the accused, the stand of the complainant is incorrect and false.

Notices of these petitions were issued and at that time, it was noticed by this Court that the petitioners have put in appearance before the trial Court and offered to make the payment involved in the cheques in question. However, no reply has been filed pursuant to the said notices. It is apprised that the issue regarding compounding of the offence is still

pending.

Since the offence involved in the complaints is summarily triable, therefore, further adjournment to await the proceedings of compounding of offence between the parties is not justifiable.

Learned counsel for the petitioner has contended that since the legal notice allegedly issued by the complainant was not served, therefore, the cognizance by the trial Court is unjustified. According to him, the necessary ingredient to constitute the offence is missing. It is further submitted that the accused have already expressed their intentions to make the payment of the amount involved in the cheque to the complainant.

On the other hand, prayer is opposed by the counsel for the respondent, who has contended that this Court has already noticed the objection of the complainant that the compounding of offence was to be in respect of the entire due amount. The matter is pending before trial Court and it is for the accused persons to respond to the complainant to clear the entire due amount.

After hearing learned counsel for the parties, this Court finds that the issue raised in these petitions for quashing of the complaints and summoning orders is founded on disputed facts, therefore, it will not be appropriate for this Court to invoke the inherent powers under Section 482 Cr.P.C. The argument that the legal notice allegedly issued by the complainant was not served or refused by the accused persons, can effectively be adjudicated only on the strength of the evidence.

In view of the above, no ground is made out for invoking the inherent powers under Section 482 Cr.P.C. for quashing of impugned

complaints and summoning orders.

Resultantly, the petitions are dismissed.

However, it shall be open for the parties to compound the offence as the said issue is pending before the trial Court.

15.05.2019

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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No

Whether Reportable : Yes/No