

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15645-2019
DECIDED ON: 04.04.2019

SUMATI GUPTA

...PETITIONER..

VERSUS

PUNJAB AND SIND BANK

...RESPONDENT..

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Gurjot Singh Mangat, Advocate,
for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Prayer in the instant petition under Section 482 Cr.P.C. has been made for quashing Criminal Complaint No.COMA/17017/2018 dated 06.12.2018, under Section 138 of the Negotiable Instruments Act, 1881 and summoning order dated 17.12.2018 (P-2).

Learned counsel contends that there was delay of 1 day in sending notice to the petitioner by the complainant. The cheque was presented twice and the payment was deposited, despite that fact, respondent-Bank had filed the impugned complaint illegally. In fact, loan was obtained by the wife of the petitioner and legal liability, if any, to pay the loan amount is of the wife and not of him. Therefore, the impugned complaint filed by the respondent-Bank against the petitioner is not maintainable. In support of his contention, he has placed reliance upon judgment of Hon'ble Gujarat High Court, titled as

"B.K. Sarkar and anr. vs. State of Gujarat and anr.", 2007(27) RCR (Criminal) 171.

Having given thoughtful consideration to the submission made by learned counsel for the petitioner, this Court finds instant petition merits dismissal for the reason to follow:-

Disputed questions of facts are involved, which can only be dealt with by the trial court after appreciation of evidence. Therefore, complaint of respondent-Bank under Section 138 of the Act, cannot be quashed.

Dismissed.

04.04.2019

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**(RAMENDRA JAIN)
JUDGE**

**Whether speaking/reasoned
Whether reportable**

**Yes/No
Yes/No**