

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

CRM-M-15774-2019
Date of Decision:-5.4.2019

M/s Riddhi Health Care and another

... Petitioners

Versus

Proton Pharma Pvt. Ltd.

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sudhir Kr. Pandey, Advocate
for the petitioners.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking quashing of complaint bearing Comp/20490/2018 dated 17.11.2018 under Section 138 of Negotiable Instruments Act and also the summoning order dated 4.1.2019 whereby the petitioner had been summoned to face trial under Section 138 of Negotiable Instruments Act.
2. The allegations as per complaint instituted by the respondent are that on 20.9.2018 an amount to the tune of ₹42,30,121/- was outstanding and pending against the petitioner and for which the petitioner issued a cheque No.681791 dated 20.09.2018 for an amount of ₹42,30,121/-, which upon its presentation was dishonoured. Upon receipt of information regarding dishonour of the cheque the complainant issued legal notice to the accused demanding payment of the cheque amount but the accused not having made the payment,

the complainant proceeded to lodge the present complaint. Upon presentation of the complaint, the complainant tendered his affidavit in preliminary evidence along with the documents. The trial Court upon examining the documents and also affidavit of the complainant reached at the conclusion that sufficient grounds are made out to proceed against the petitioner.

3. The learned counsel for the petitioner has submitted that in the present case, there was in fact no such liability as has been projected in the complaint and that the ledger books relied upon by the complainant had not been scrutinized by the Chartered Accountant and that in these circumstances it cannot be accepted that an amount of ₹42,30,121/- was due against the petitioner. It has further been submitted that in any case, since the petitioners are based in West Bengal, therefore, in terms of provisions of Section 202 Cr.P.C., the learned Magistrate could not have immediately proceeded to summon the petitioners and was required to postpone the process so as to hold an inquiry himself or to direct investigation to be conducted in the matter.
4. I have heard learned counsel for the petitioner and perused the record. As regards contentions to the effect that the liability as reflected in the ledger books of the complainant has not been scrutinized by the Chartered Accountant, the said aspect is a matter to be looked into by the trial Court wherein it shall be open to the petitioner to lead evidence to show that in fact there was no such legal liability against the petitioners. As far as the contention of

learned counsel for the petitioner to the effect that no sufficient inquiry has been conducted by the Court before proceedings to summon the petitioners, I find that the present complaint is a complaint for offence punishable under Section 138 of Negotiable Instruments Act. In such an offence no inquiry by the police official is required to be conducted and in case the Court upon examining the documents and evidence led by the complainant is satisfied that sufficient grounds are made to summon the accused, the Court is fully competent for summoning the accused. A perusal of the impugned order dated 4.1.2019 (Annexure P-2) shows that the same has not been passed in a mechanical manner but detailed order has been passed after examining material documents & the evidence led by the complainant and it was thereafter that a speaking order has been passed for summoning of the petitioners. In these circumstances, this Court does not find any infirmity in the impugned order or for quashing of the complaint. The petition, as such, is sans merit and is hereby dismissed.

5. It is, however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case.

(GURVINDER SINGH GILL)
JUDGE

5.4.2019
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No