

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-17486-2019 (O&M)
Date of Decision:-22.4.2019

Jagdish Ram Sandhu

... Petitioner

Versus

Union Bank of India

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sanjiv Gupta, Advocate for the petitioner.

GURVINDER SINGH GILL, J.(Oral)

The petitioner has approached this Court seeking quashing of complaint No.NACT/2975/2018 dated 13.9.2018 registered under Sections 138 and 142 of Negotiable Instruments Act and also summoning order dated 18.1.2019 (Annexure P-2) passed by learned Civil Judge, Junior Division-cum-Judicial Magistrate 1st Class, Panipat, whereby he has been summoned to face trial for offence under Section 138 of Negotiable Instruments Act.

The learned counsel for the petitioner submits that he is infact a guarantor in respect of a loan raised by 'M/s Om Dairy & Breeding Farm' and that although a substantial part of loan had been repaid and only a part of it remained to be repaid, which could not be repaid on account of certain losses suffered by 'M/s Om Dairy & Breeding Farm' and since the bank has already initiated proceedings under Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 and has

also initiated recovery proceedings under Recovery of Debts Due to Banks and Financial Institutions Act, 1993, therefore, in these circumstances the bank could not have presented the cheque issued by the guarantor and that the proceedings under Section 138 of Negotiable Instruments Act are an abuse of process of law.

The learned counsel has further submitted that, in any case, no proceedings under Section 138 of Negotiable Instruments Act are maintainable in respect of a security cheque and the complaint as well as summoning order deserve to be quashed.

Having heard the learned counsel for the petitioner, the petition is disposed of with liberty to the petitioner to raise all the aforesaid points before the trial Court at appropriate stage. In case the aforesaid points are raised before the trial Court, the trial Court shall dispose of the same by passing a speaking order in respect of the aforesaid issues.

22.4.2019

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether reasoned/speaking

Yes / No

Whether reportable

Yes / No