

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-4295 of 2018

.....

Date of decision:21.02.2019

Sachin Khosla

...Petitioner

v.

M/s Chaudhary Metals

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Gopal Sharma, Advocate for the petitioner.

Mr. Baljeet Beniwal, Advocate for the complainant-respondent.

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Inderjit Singh, J.

This criminal miscellaneous petition has been filed under Section 482 Cr.P.C. for quashing of criminal complaint No.242 dated 28.01.2016 (Annexure-P.1), titled “M/s Chaudhary Metals Vs. M/s R.K. Smeltech Pvt. Ltd. and others” filed under Sections 138 and 142 of the Negotiable Instruments Act, 181 (hereinafter referred to as ‘the NI Act’) and Section 420 IPC pending in the Court of learned Judicial Magistrate Ist Class, Faridabad; summoning order dated 26.02.2016 (Annexure-P.2) passed by learned Judicial Magistrate Ist Class, Faridabad and order dated 16.01.2018 (Annexure-P.4) passed by learned JMIC, Faridabad and all consequential proceedings arising out of the impugned complaint.

Notice of motion has been issued in this case.

Mr. Baljeet Beniwal, learned Advocate has appeared on behalf of the complainant-respondent and contested this petition.

I have heard learned counsel for the parties and have gone through the record.

At the time of arguments, learned counsel for the petitioner argued that the petitioner is neither the Director nor the employee of the Company nor he is signatory to the cheque. Therefore, he argued that filing of complaint and the subsequent proceedings against him are nothing but an abuse of process of law. Learned counsel for the petitioner has placed reliance upon the certificate issued by the Registrar of Companies which shows Rajender Kumar Dhawan, Vinay Dhawan, Praveen Kumar Khosla as Directors and Vinod Khosla has resigned w.e.f 30.7.2015.

Learned counsel for the respondent could not show any document that the present petitioner is, in any way, related to the accused firm M/s R.K. Smeltech Private Limited. Learned counsel for the respondent also did not contest the fact that Sachin Khosla is not the Director of accused No.1 Company nor he contested the fact that Sachin Khosla is not signatory to the cheque.

Keeping in view the fact that the present petitioner is neither Director nor employee of the Company nor signatory to the cheque, the complaint under Section 138 of the NI Act ; summoning order under Section 138 of the NI Act does not lie. The filing of the complaint against the present petitioner is nothing but an abuse of the process of law and amounts to miscarriage of justice.

Therefore, finding merit in this petition, the same is allowed

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qua the petitioner. Criminal complaint No.242 dated 28.01.2016 (Annexure-P.1), titled “M/s Chaudhary Metals Vs. M/s R.K. Smeltech Pvt. Ltd. and others” filed under Sections 138 and 142 of the NI Act and Section 420 IPC pending in the Court of learned Judicial Magistrate Ist Class, Faridabad; summoning order dated 26.02.2016 (Annexure-P.2) passed by learned Judicial Magistrate Ist Class, Faridabad and order dated 16.01.2018 (Annexure-P.4) passed by learned JMIC, Faridabad and all consequential proceedings arising out the same are hereby quashed qua the petitioner.

February 21, 2019.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No