

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45277 of 2016 (O&M)
DECIDED ON: 05.02.2019

AMRITPAL SINGH

..PETITIONER

VERSUS

RAHUL AHUJA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Vikas Bahl, Sr. Advocate with
Mr. Manbir Singh Batth, Advocate for the petitioner.

Mr. Gurcharan Dass, Advocate for the respondent.

RAMENDRA JAIN, J. (ORAL)

Through instant petition under Section 482 Cr.P.C. prayer has been made for quashing/setting aside order dated 28.11.2016 (P-10) of the trial court, whereby application of the petitioner for staying the proceedings in complaint case under Section 138 of the Negotiable Instruments Act, 1881 (for short, "Act"), was dismissed.

Learned counsel contends that civil suit with similar controversy is pending between the parties. Therefore, the trial court ought to have stayed the proceedings till decision of the civil court. In support of his contention, learned counsel for the petitioner has placed reliance upon judgments passed in CRM-M-2330-1986, titled as "*Kahla Singh vs. State of Punjab and ors.*" and CRR No.589 f 1996, titled as "*Jai Pal vs. Narain Singh*".

The facts and circumstances of *Kahla Singh's* case (supra)

are not identical to the facts of the present case. In the instant case, petitioner as mediator received payment of Rs.5.25 Crore from respondent as sale consideration on behalf of the real owner, who had already sold his share to a third person, inasmuch as, the transaction was in between the parties before the High Court and not with the third party. Therefore, no benefit of the same can be given to the petitioner.

In **Jai Pal's** case (supra), the sale transaction was in between the parties, whereas in the instant case, the petitioner being property dealer/mediator has received sale consideration from respondent-complainant. The suit filed by the petitioner for mandatory injunction against the respondent-complainant has no bearing, inasmuch as, the petitioner only wants some declaration and injunction to return two agreements allegedly executed by him in favour of respondent No.1 before receiving Rs.5.50 crores paid by respondent to him as sale consideration, whereas in the instant case, cheque of the petitioner for Rs.5.25 crore has bounced, against which, complaint under Section 138 of the Act is quite maintainable. Therefore, the facts and circumstances of above case are also not identical. Thus, no benefit of the same can be given to the petitioner.

In view of discussion made above, instant petition is dismissed.

05.02.2019*sonika***(RAMENDRA JAIN)
JUDGE****Whether speaking/reasoned
Whether reportable****Yes/No
Yes/No**