

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

135)

Crl. Misc. No.M-26658 of 2019 (O&M)

Date of Decision: 25.11.2019

Suresh Kumar Kukreja and another

...Petitioners

Versus

M/s Competent Forging Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Sunil Chadha, Senior Advocate with
Mr. Saurav Kanojia, Advocate, for the petitioners.
Mr. P.S. Ahluwalia, Advocate, for the respondent.

Amol Rattan Singh, J. (Oral)

Though by this petition, the petitioners have sought quashing of the complaint itself as has been instituted by the respondent against them under the provisions of Section 138 of the Negotiable Instruments Act, 1881, however, Mr. Chadha, learned Senior Counsel appearing for the petitioners, on instructions, had submitted on November 20, 2019 that the petitioners were restricting their prayer only to the setting aside of the order of the trial court dated 30.11.2016 (copy Annexure P-3), by which that court had declared petitioner no.1 to be a proclaimed person.

Learned Senior Counsel had also submitted that if the complainant was willing to settle the entire matter by accepting Rs.7,67,000/-, the complaint itself would not need to be proceeded with further.

However today Mr. Ahluwalia submits that the complainant having suffered a loss @ 12.5% per annum (as contended), the said amount is not acceptable to him.

That being so, naturally the trial has to proceed as per the evidence led before that court.

As regards the delay caused to the respondent in the complaint proceedings in the first place, though Mr. Chadha, learned Senior Counsel, has submitted that the petitioners had in fact vacated the premises where notices/summons were attempted to be served, on December 01, 2015, with the key of the premises having been handed over before the Delhi High court to the owner of the premises, and therefore they cannot be faulted for the delay, what is to be noticed by this court is that obviously despite the change of address, the petitioners were aware of the cheques in question being dishonoured, and eventually they have come to this court on their own.

Hence, it is very difficult for this Court to accept that the petitioners did not know at all of the proceedings before the trial court, though when they came to know about such proceedings is a moot point.

Considering that fact, but without making any comment on the merits of the complaint for either the petitioner and the complainant, this petition is disposed of with a direction that upon the petitioners paying Rs.60,000/- to the respondent complainant, petitioner no.1 would be admitted to bail upon his furnishing adequate bail and surety bonds to the satisfaction of the trial court, with the order declaring him to be a proclaimed person to be thereafter set aside.

Naturally, petitioner no.1 would continue to remain on bail only

so long as he is continues to appear on each and every date that he is summoned to do so, except (again obviously) if he is given permission from personal exemption on any particular date by that court.

It is made clear that the compensation of Rs.60,000/- being ordered to be paid today, will not in any manner affect the outcome of the complaint and if eventually the petitioners are found guilty at all, any compensation to be awarded to the complainant for dishonouring of the cheque (if so), would be regardless of the compensation ordered to be paid by this order.

(AMOL RATTAN SINGH)
JUDGE

25.11.2019
vcgarg

Whether reasoned/speaking: Yes
Whether reportable: No