

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

CRM-M-52299-2019

Date of Decision:06.12.2019

Siby Thomas

...Petitioner

Versus

M/s Somany Constructions Ltd

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Wills Mathews, Advocate for the petitioner.

ANIL KSHETARPAL, J.

Learned counsel for the petitioner contends that the complaint filed under Section 138 of the Negotiable Instrument Act, 1881 (for short 'the Act of 1881') is not maintainable against the petitioner, as he had resigned from the partnership firm on 28.05.2013, whereas the cheque in question was issued on 21.08.2015.

The accused-petitioner would be required to lead evidence and prove that fact. The complaint filed under Section 138 of the Act of 1881 cannot be rejected qua the petitioner at initial stage. In exercise of powers under Section 482 Cr.P.C., this Court cannot appreciate the evidence which is still to be led and proved.

In view of the above, the present petition is disposed of by relegating the petitioner to the remedy before the Magistrate.

06.12.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No