IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-33424-2019
Date of Decision: 30.08.2019

Mahesh Kumar
......Petitioner

Vs.

State of Punjab
.........Respondent

CRM-M-31522-2019

Chander Kant Gupta
....Petitioner

Vs.

State of Punjab
...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. J.S. Bedi, Senior Advocate, with
Mr. Shivam Malik, Advocate,
for the petitioner (in CRM-M-33424-2019).

Mr. S.S. Rangi, Advocate,
for the petitioner (in CRM-M-31522-2019).

Mr. A.P.S. Gill, D.A.G., Punjab.

Mr. Parminder Singh, Advocate,
for the complainant.

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AMOL RATTAN SINGH, J. (ORAL)

In response to the query put by this Court on the last date of hearing, Mr. Parminder Singh, learned counsel for the complainant, submits that one of the signatures, on the cheque on which there are two signatures, are not on behalf of the firm, i.e. the signature at the place right next to the hand-written part of the cheque, the said signature only being an initial.

He further submits that if the complainant firm/company was to transfer Rs. 2,00,00,000/- to M/s Arjan Mal Retail Holding Pvt. Ltd., it would not have adopted such a circuitous route to do so and would have paid the said firm directly.

As regards the signatures being different, Mr. Bedi learned Senior Counsel appearing for the petitioner in CRM-M-33424-2019, as also Mr. Rangi, learned counsel for the petitioner in CRM-M-31522-2019, have produced in Court a photocopy of the report from the Forensic Science Laboratory, stating to the effect that the signatures are of the same person.

Learned State counsel does not dispute the aforesaid, on the basis of the police file given to him by the official present in Court to assist him.

As regards the circuitous transfer instead of a direct transfer to M/s Arjan Mal Retail Holding Pvt. Ltd., Mr. Bedi submits that the said method was adopted actually because a senior functionary of the Bank at one stage may have sanctioned an unsecured loan to M/s Arjan Mal Retail Holding Pvt. Ltd. and consequently, the money was requested to be transferred from the complainants' account in the HDFC Bank, to his 'sister company' account in the UCO bank, from where it was then transferred to M/s Arjan Mal Retail Holding Pvt. Ltd., to enable them to discharge their loan to another bank and thereby get released the property mortgaged to that bank and thereafter secure the loan, with that property being mortgaged with the UCO Bank, with the complainant to be possibly paid interest on Rs. 2 crores for helping out M/s Arjan Mal.

Other than that, Mr. Bedi and Mr. Rangi reiterate that the complainant having remained silent ever since 31.12.2013 till August 2014, despite almost Rs. 2,00,00,000/- having gone out from its account, very obviously, the Directors were fully aware of the transaction, especially as, within a day or two of the transaction itself, an objection was raised as to the amount of interest charged for purchase of the cheque by one Bank from the other, with no objection having been raised to the transfer of the amount of almost Rs. 2,00,00,000/-, itself.

Keeping in view the aforesaid circumstances, these petitions are allowed, with the petitioners in these petitions ordered to be admitted to bail upon their furnishing bail bonds and surety bonds to the satisfaction of the trial Court.

However, nothing stated hereinabove shall be taken to be an observation on the merits of the case of either side, which naturally would be gone into by the trial Court on the basis of evidence led before it, with all such observations made by this Court being only in the context of the petitions filed under Section 439 Cr.P.C.

August 30, 2019 **(AMOL RATTAN SINGH)**
nitin **JUDGE**

Whether speaking/reasoned Yes
Whether Reportable No.