

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

(1)

**Criminal Misc. No.M-31521 of 2013 (O&M)
Date of Decision: October 24, 2019**

Amit Jain

.....PETITIONER(s).

VERSUS

Jeet Singh and another

....RESPONDENT(s).

(2)

Criminal Misc. No.M-36115 of 2013 (O&M)

Ashok Punia

.....PETITIONER(s).

VERSUS

Jeet Singh and another

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sandeep Suri, Advocate
for the petitioner in CRM-M-31521-2013 and
for respondent No.2 in CRM-M-36115-2013.

Mr. T.C. Dhanwal, Advocate
for respondent No.2 in CRM-M-31521-2013
and for petitioner in CRM-M-36115-2013.

Mr. Sanjiv Gupta, Advocate
for respondent No.1 in both the petitions.

SURINDER GUPTA, J.

This order will dispose of both the above captioned petitions
filed under Section 482 Code of Criminal Procedure seeking quashing of
orders dated 04.01.2010 passed by the Court of learned Chief Judicial

Magistrate, Sirsa in complaint case titled "*Jit Singh Vs. Amit Jain and another*" (*Criminal Complaint No.182-1 of 2009*).

ICICI Bank Limited through its authorised representative Mr. Amit Jain (petitioner) filed a complaint under Section 138 of Negotiable Instruments Act against Jeet Singh-respondent No.1, which was dismissed vide order dated 13.12.2010 passed by learned Addl. Chief Judicial Magistrate. After the decision of that case, Jeet Singh filed complaint under Sections 193, 194, 196, 209, 420, 467, 468, 471 read with Section 120-B of Indian Penal Code against petitioners Amit Jain and Ashok Punia with the allegations that he had taken loan from ICICI Bank and at the time of advancement of loan, bank has taken signatures of complainant-respondent No.1 Jeet Singh on 3 blank cheques as security with the assurance that these will be returned one by one. The instalments of the loan were deposited to Ashok Punia (petitioner). When he asked for the receipt, he assured that 'No Dues Certificate' will be issued by the Head Office but the same was not issued despite deposit of entire loan amount and accused No.2 started threatening to use his blank cheques. On receipt of notice from the Court about filing of complaint, under Section 138 of Negotiable Instruments Act, he came to know that accused No.1 and 2 (petitioners) have filed a complaint in collusion with each other. In the cheque on the dishonour of which, complaint was filed, the date 01.10.2007 had been cut and fabricated amount was filled in. The cheques when presented, were returned for 'insufficient funds' in the account of respondent-Jeet Singh. Respondent Jeet Singh alleged that accused in order to take illegal bounty have falsely filled the amount in the cheques to play fraud and cheated the complainant.

The complaint before the Court was filed on the basis of false affidavit. They had kept the complainant in dark while obtaining his signatures on blank cheques.

After recording preliminary evidence, learned trial Court ordered the summoning of petitioners for the offences punishable under Sections 193, 194, 196, 468 and 471 IPC.

Complaint under Section 138 of Negotiable Instruments Act was filed against respondent Jeet Singh by ICICI Bank. However, he filed the complaint against the petitioners without impleading ICICI Bank as party. The complaint filed under Section 138 of Negotiable Instruments Act was filed against respondent No.1 Jeet Singh by ICICI Bank and not by Ashok Punia or Amit Jain. Amit Jain was only an authorised representative of the bank and the remedy, if any of forging of cheques is against the bank and not against its authorised representative, who filed the complaint. In the order passed by the Additional Chief Judicial Magistrate, dismissing complaint u/s 138 Negotiable Instruments Act, it has nowhere been observed that any entry in the cheque dated 01.10.2007 was forged or fabricated. Even if, it be believed that petitioners have not issued 'No Dues Certificate' to the respondent No.1-Jeet Singh, he has remedy against the bank and not the bank officials, who are not competent to issue the 'No Dues Certificate' in their individual capacity.

Keeping in view the above facts, I am of the considered opinion that filing of complaint by respondent Jeet Singh and summoning of the petitioners to face the trial, is sheer misuse of the process of Court. Consequently, both the above captioned petitions are allowed and the

complaint titled “*Jeet Singh Vs. Amit Jain and another*” Criminal Complaint No.182-1 of 2009, along with summoning order dated 04.10.2010 and all subsequent proceedings, is quashed qua the petitioners.

October 24, 2019
Sachin M.

(SURINDER GUPTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>