

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.117

CRM-M-48524-2019

Date of decision : 18.11.2019

Dr. Vikas Singhal

..... Petitioner

VERSUS

Sh. Satya Dev Bansal Advocate

..... Respondent

CRM-M-48560-2019

Smt. Davinderjeet Kaur

..... Petitioner

VERSUS

Sh. Satya Dev Bansal Advocate

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Amar Vivek, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

This order shall dispose of abovementioned petitions as identical questions of law are involved therein. The facts of CRM-M-48524-2019 are being referred to.

The petitioner is an accused in a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act'). On being summoned, he had approached this Court vide CRM-M-12636-2019 titled as Dr. Vikas Singhal Vs. Satya Dev Bansal Advocate and this Court passed order dated 18.3.2019, permitting the petitioner to withdraw that petition with liberty to take appropriate pleas at the appropriate stage. Thereafter, the petitioner filed an application under Section 245 Cr.P.C. seeking his discharge, which has been rejected vide order dated 4.5.2019. The said order has not been challenged any further. Prior thereto, the complainant-respondent filed an application under Section 143-A of the Act seeking payment of interim compensation and the said application has been allowed

vide order dated 10.10.2019. The said order as well as order dated 4.5.2019 have been impugned in the present petition.

Learned counsel for the petitioner submits that order dated 4.5.2019 rejecting the application filed under Section 245 Cr.P.C. is illegal as the trial Court has failed to inter alia consider that complaint does not reveal the circumstances under which the money was alleged to have been given, no date of the payment is forthcoming and there is also no proof that the amount given was reflected in the income tax return of the complainant. Allegation of collusion has not been referred to and no determination of whether prima facie case was made out or not, has been made.

Considering the fact that order dated 4.5.2019 was revisable, the petitioner could have challenged the same before the revisional Court. I see no valid reason for approaching this Court by way of present quashing petition and thus, challenge to the order dated 4.5.2019, is rejected.

Learned counsel for the petitioner then submits that the language of Section 143-A of the Act makes it abundantly clear that the trial Court is not bound to order payment of 20% interim compensation in every case. A discretion has been vested in the Court as is apparent from judgment dated 12.7.2019 passed by the High Court of Judicature at Madras in L.G.R. Enterprises and another Vs. P. Anbazhagan.

The submission of learned counsel for the petitioner may be well founded, but I am not inclined to exercise my extraordinary jurisdiction under Section 482 Cr.P.C. in the facts and circumstances of the case. The said order is revisable and thus, the petitioner would be well advised to first approach the revisional Court. The petition so far as it relates to impugned

order dated 10.10.2019 is permitted to be withdrawn with liberty to approach the revisional Court in the first instance.

Both petitions are accordingly disposed of.

(SUDHIR MITTAL)
JUDGE

18.11.2019
Ramandeep Singh

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