

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-50147-2019 (O&M)

Date of decision: 26.11.2019

Anil Gambhir

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Manoj K. Sharma, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for quashing of criminal complaint bearing No.2826 of 2017 dated 15.03.2017 titled as M/s Herotech Ltd. Vs. Anil Gambhir, filed under Section 138 of the Negotiable Instruments Act read with Section 420 IPC and the summoning order dated 17.03.2017 as well as all the consequential proceedings arising therefrom.

Learned counsel for the petitioner submits that in response to the notice of accusation, the petitioner has made a statement on 07.08.2018 that he has been falsely implicated, as neither he is proprietor of M/s Medi Aid Surgical nor is signatory of the cheque in question. It is further submitted that the cheque in question was not issued by the petitioner and the same does not relate to his account number and in fact, the account bearing No.914020004761578 does not belong to him. Learned counsel

further submits that in fact, M/s Medi Aid Surgical is sole proprietorship firm of his brother Ashish Gambhir and this fact has not been appreciated by the trial Court despite the statement made by him and prays that at this stage, he may be permitted to withdraw the present petition with liberty to the petitioner to move an application for discharge along with all the supporting documents and personal appearance of the petitioner before the trial Court may be exempted.

Dismissed as withdrawn with liberty aforesaid.

In case the petitioner moves an application for discharge within a period of 15 days from today, the trial Court will decide the same on merits without raising any objection regarding its maintainability.

Till disposal of the application for discharge to be moved by the petitioner, his personal appearance shall remain exempted before the trial Court subject to the following conditions: -

- (i) *he will be represented by a counsel;*
- (ii) *he will not delay/stall the proceedings of the trial Court;*
- (iii) *he will not dispute his identity as accused;*
- (iv) *he will have no objection if the prosecution evidence is recorded in his absence but in presence of his counsel;*
- (v) *he will appear before the trial Court as and when required by the trial Court and any other condition which the trial Court may impose.*

[ARVIND SINGH SANGWAN]
JUDGE

26.11.2019
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Whether speaking/reasoned Yes/No

Whether reportable: Yes/No