

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

CRM-M-17512-2020
Date of decision: 10.9.2020

Major Singh

.....Petitioner.

vs.

State of Punjab

.....Respondent.

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Mr. Paras Jagga, Advocate, for the petitioner.

Mr. Saurav Khurana, Deputy Advocate General, Punjab.

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Sanjay Kumar, J. (ORAL)

This petition was filed under Section 482 Cr.P.C. to quash the order dated 23.1.2020 (Annexure P-1) passed by the learned Judicial Magistrate First Class, Patiala, in Complaint No.57494 dated 19.5.2012, titled '*M/s Mandeep Engineering Works vs. Major Singh etc*'.

By the said order dated 23.1.2020, the learned Judicial Magistrate First Class, Patiala, directed issuance of recovery warrants against the property of the accused for 29.2.2020 and in the meantime, warrants of attachment *qua* the list of properties furnished by the applicant were also issued. Aggrieved thereby, the accused in the complaint case filed the present petition.

The petitioner-accused was convicted in the subject complaint case under Section 138 of the Negotiable Instruments Act, 1881, *vide* judgment dated 13.2.2015, which was affirmed in appeal

by the learned Sessions Judge, Patiala, *vide* judgment dated 14.12.2015.

CRR-3213-2016 filed against the aforestated judgments was withdrawn on the ground that the accused had already undergone the sentence of one year imprisonment imposed upon him.

The complainant thereafter moved an application before the learned Judicial Magistrate First Class, Patiala, for recovery of the compensation amount, awarded *vide* judgment dated 13.2.2015, leading to passing of the impugned order dated 23.1.2020. As the joint account of the petitioner-accused and his mother, Jaspal Kaur, had been attached pursuant to the order dated 23.1.2020, the petitioner made an offer that he would deposit 50% of the cheque amount within two weeks.

By order dated 6.7.2020 passed in this case, this Court noted the offer made by the petitioner-accused and ordered notice of motion. The petitioner-accused, for reasons best known to him, did not choose to implead the complainant, M/s Mandeep Engineering Works, Village Bhuneheri, District Patiala, as a party-respondent in this petition.

In any event, when the matter was taken up on 11.8.2020, the learned counsel for the petitioner-accused informed this Court that, in compliance with the order dated 6.7.2020, 50% of the cheque amount had been deposited with the trial Court and sought lifting of the attachment of the joint account of his mother and himself, so as to enable him to deposit the balance 50% of the cheque amount in the trial Court. This Court accordingly directed de-freezing of the joint account to the extent of

₹ 2.50 lakh, being the remaining 50% of the cheque amount, to enable the petitioner-accused to deposit the same before the trial Court within a time frame.

It is now reported by Mr. Paras Jagga, learned counsel, that the balance amount has also been deposited. He produced a copy of the zimini order dated 28.8.2020 passed by the learned Judicial Magistrate First Class, Patiala, recording that, in compliance with the order dated 11.8.2020 passed by this Court, Demand Draft bearing No.000083 dated 26.8.2020 for a sum of ₹ 2.50 lakh had been deposited in the Court. The matter was adjourned by the learned Magistrate to await further orders from this Court.

As already noted *supra*, the complainant in this case was not impleaded as a party respondent in this petition, but Mr. Amrinderbir Singh Barsat, learned counsel along with Ms. Jaspreet Kaur Bhangoo, learned counsel, entered appearance on its behalf and filed a joint power of attorney. Learned counsel would state that he has no objection to the impugned order being set aside but prays for a direction to the trial Court to release the cheque amount in favour of the complainant in terms of the judgment, which has attained finality.

Given the totality of the circumstances of the case, *aquietus* can be given to the matter by permitting the compensation amount, which has been deposited in full before the learned Judicial Magistrate First Class, Patiala, to be released to the complainant in terms of the judgment dated 13.2.2015.

The petition is accordingly allowed setting aside the impugned order dated 23.1.2020 (Annexure P-1). The learned Judicial Magistrate First Class, Patiala, is directed to release the compensation awarded, being the full cheque amount, in favour of the complainant in Complaint No.57494 dated 19.5.2012 in accordance with the due procedure.

The learned Magistrate shall also lift the attachment of the joint account of the petitioner-accused and his mother.

(SANJAY KUMAR)
JUDGE

10.9.2020

preeti

whether speaking/non speaking

yes/no

whether reportable/non reportable

yes/no