

Sr. No.216

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

CRM-M-48885 of 2020 (O&M)

DATE OF DECISION : 29.09.2020

PuneelGoel

...Petitioner

Versus

State of Haryana &Anr.

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Aditya Jain, Advocate,
for the petitioner.

Mr. Nitin Tathai, Advocate
For respondent N.2.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. Petitioner seeks quashing of criminal complaint No. 3167 of 2017, titled as "Satish Kumar Malik Vs. Piyush Shelters India Pvt. Ltd.", filed by respondent No.2 under Section 138 of Negotiable Instruments Act and consequent summoning order dated 02.12.2017 passed therein.

2. The impugned complaint was filed by respondent No.2 qua dishonour of cheque dated 12.06.2017 for an amount of Rs.22,05,636/- issued by the petitioner in his capacity as Director of M/s Piyush Shelters India Pvt. Ltd. in discharge the alleged outstanding. The said cheque was dishonoured by the banker of the petitioner on account of "insufficient funds" vide memo dated 29.07.2017. Despite legal notice dated 26.08.2017, no payment was made, leading to the filing of impugned complaint, wherein the trial Court on the basis of preliminary evidence, summoned the petitioner vide order dated 02.12.2017, impugned herein.

3. The prime argument of learned counsel for the petitioner is that the petitioner cannot be prosecuted for dishonouring of cheque as the liability was that of Company and not the petitioner as individual. Particularly, when the account of the Company was frozen by virtue of orders dated 03.12.2018 passed by the National Company Law Tribunal, Allahabad Bench. All the moveable and immoveable assets of the Company have been taken over under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule, 2016.

4. The argument is totally misconceived. The cheque in question is dated 12.06.2017, which was dishonoured on 29.07.2017 i.e. much prior to the passing of the order *ibid* by the NCLT. Even the legal notice dated 26.08.2017 served upon the petitioner is prior to commencement of IBC proceedings. The petitioner cannot thus take ruse under NCLT order dated 03.12.2018, passed way after the institution of impugned complaint and passing of the summoning order.

5. No ground to interfere is thus made out.

6. The petition is accordingly dismissed.

September 29, 2020
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(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No