

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

**Civil Writ Petition No. 7365 of 2021 (O&M)
Date of Decision: 03.08.2021**

Paramjit Singh

..... Petitioner

Versus

The Bathinda Central Co-op Bank Ltd., Branch at
Village Jalal, Tehsil Rampura Phul, District Bathinda
through Branch Manager and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present: Mr. Lupil Gupta, Advocate
for the petitioner.

*[The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual court]*

JASWANT SINGH, J.

Petitioner – Paramjit Singh is stated to have borrowed an amount of ₹ 25 Lakhs from the respondent-Bank under Dairy Loan Scheme, which was sanctioned on 09.01.2015. It seems that the petitioner failed to maintain the financial discipline, which led to irregularities in the loan account. A cheque dated 10.05.2017 for ₹ 6.50 Lakhs was alleged to have been issued by the petitioner in favour of the respondent for discharge of its loan liability in part. The said cheque was dishonored on 10.05.2017, which led to issuance of a legal notice dated 17.05.2017, which was then followed by filing of a complaint under Section 138 of the Negotiable Instruments Act, 1881 by the respondent-Bank before the learned trial Court, Phul (District Bathinda).

[2] In the meanwhile, it seems that respondent-Bank approached

Sub- Registrar, Cooperative Societies Bathinda against the petitioner as well

as the guarantors, seeking recovery of ₹ 40,50,385.87. In the said process, the aforesaid authority deemed it expedient to call upon the petitioner and the other guarantors to appear before it on 02.03.2021 to examine the case for resolution and for this purpose issued impugned notice dated 22.01.2021 **(Annexure P-3).**

[3] The contention of the learned counsel for the petitioner is that the Bank could not have initiated parallel proceedings against the petitioner for the same cause. In other words, once the Bank had already initiated prosecution by filing of a complaint under Section 138 of the Negotiable Instruments Act, 1881, a parallel proceeding of recovery of the due amount could not be initiated. Learned counsel for the petitioner places reliance upon Article 20 (2) of the Constitution of India to contend that no citizen can be punished or prosecuted twice for the same offence.

[4] Having considered the submission of the petitioner, we find the aforesaid submission to be completely misplaced. Initiation of a prosecution under Section 138 of the Act, 1881 is to seek conviction on account of allegedly having committed an offence by the petitioner on account of dishonour of the cheque in question. While on the other hand, in order to seek recovery of the debt, the respondent is very well entitled to institute civil proceedings under the Punjab Cooperative Societies Act, 1961 to obtain a decree or award to then seek execution for recovery of the debt. Both the aforesaid remedies are separate and independent of each other, inasmuch as the first proceeding is criminal, whereas the second is civil in nature. Moreover, proceedings under Section 138 of the Act, 1881 cannot be equated or treated to be a civil suit for recovery. Similarly, if a civil suit for

initiation of prosecution under Section 138 of the Negotiable Instruments Act, 1881 in case if the cheque issued by the borrower is dishonoured. Thus, there is no question of the petitioner having been prosecuted twice and consequently Article 20(2) of the Constitution of India is not attracted to the present case.

[5] That apart, we are unable to comprehend as to how, a notice issued by the authority calling the petitioner to examine possibility of resolution of dispute, give a cause of action to the petitioner to maintain the instant petition. Resolution of a dispute would only be with mutual consent. If the authority has decided to examine the possibility of conciliation before proceeding to adjudicate the dispute, we find no error in the process. Therefore, we do not see, in what manner such an attempt would even prejudice the rights of the petitioner to enable him to maintain the instant *lis*.

[6] For the aforesaid reasons, the present petition is **dismissed**. It is hereby **clarified** that we have not opined on the merits of the pending proceedings or the *inter se* rights and contentions of the parties, which shall be decided uninfluenced by the present order.

Needless to say, the petitioner shall have his remedies open, as would be available to him, in accordance with law.

(JASWANT SINGH)
JUDGE

August 03, 2021
'dk kamra'

(SANT PARKASH)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No