

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

**CRM-M-17548-2021(O&M)
Date of decision:-27.4.2021**

Jain Spun Pipe Company and another

...Petitioners

Versus

BRHC Pipe Industries

...Respondent

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Alok Jain, Advocate
for the petitioners.

H.S. MADAAN, J.

Case taken up through video conferencing.

Petitioners Jain Spun Pipe Co., through its sole proprietor Raj Kumar Jain and Raj Kumar Jain, himself accused in criminal complaint under Section 138 of Negotiable Instruments Act, 1881 filed by M/s BRHC Pipe Industries against them, have brought the instant petition under Section 482 Cr.P.C. seeking quashing of order dated 1.2.2021 passed in revision petition by Additional Sessions Judge, Faridabad affirming order dated 9.8.2019 passed by Judicial Magistrate Ist Class, Faridabad, declining their application dated 25.10.2017 for dismissal of complaint No.5407-2015 dated 27.2.2013, and further seeking allowing of that application in question, so moved by the petitioners before the trial Magistrate.

Briefly stated, the facts of the case are that after being

summoned as accused in the criminal complaint, during the course of trial the accused had moved an application to the effect that they were ready and willing to make the payment of the cheque amount and that parties to the complaint had settled the dispute on 6.10.2015 in terms of which, accused had paid a sum of Rs.1 lakh on 6.4.2016 and also issued cheque No.796752 dated 28.7.2016 for Rs.2,00,344/- drawn on SBI Green Park, New Delhi in favour of the complainant, which was duly encashed by the complainant, however, the complainant with malafide intention did not withdraw the complaint, the accused prayed that application in question be accepted.

The application was resisted by the complainant denying any such alleged settlement contending that on 31.5.2016, the accused had made a part payment of Rs.1 lakh in cash one time in case of three cheques to the complainant and on 2.8.2016, the accused had deposited a sum of Rs.2,00,344/- in the bank account of the complainant, however neither the compensation amount was paid by accused to the complainant nor any cheque was so handed over as alleged in the application. The complainant prayed for dismissal of the application.

After hearing arguments, learned trial Magistrate concluded that from the record, it did not transpire that any settlement had been entered into between the parties and it is a matter of evidence as to whether any oral settlement had taken place between them, therefore proceedings against the accused could not be dropped for the said reason at that stage.

Feeling aggrieved, the accused had preferred a revision petition before the Court of Sessions at Faridabad, which was dismissed

by learned Additional Sessions Judge, Faridabad vide order dated 1.2.2021 by giving the following reasons:

- (i) The impugned order passed by the trial Court appeared to be interlocutory and the revisionist/accused had no right to be discharged more particularly when it was not clear as to whether amount of Rs.2,00,344/- in respect of cheque No.119410 was paid actually towards the cheque, which was dishonoured or towards the other amount due in the current account.
- (ii) On perusal of the cross-examination of the complainant, although it came out that he admitted about a compromise but it was not clear as to whether the amount of cash paid Rs.1 lakh was towards the cheque in question.
- (iii) If the parties entered into an oral compromise then they should have brought the record of compromise on the Court file.

Still feeling aggrieved, petitioners have filed the instant petition.

I have heard the learned counsel for the petitioner besides going through the record and I do not see any reason to accept the petition by way of exercising powers under Section 482 Cr.P.C.

Section 482 Cr.P.C. deals with inherent powers of the High Court providing that nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

The orders passed by the Courts below are quite detailed especially order passed by learned Additional Sessions Judge, Faridabad while dismissing the revision petition filed by the present petitioners. He has given sufficient reasons for dismissing the revision petition and upholding the order passed by the trial Court.

I find that the impugned orders are detailed and well reasoned. They do not appear to be suffering from any illegality or infirmity much less apparent on the face thereof. The orders are certainly not perverse or passed in an arbitrary manner. There is no reason to interfere with the impugned orders by way of exercising powers under Section 482 Cr.P.C.

Finding no merit in the petition, the same stands dismissed.

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27.4.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No