

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-20355 of 2021 (O&M)

Date of decision : 2.7.2021

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Rajesh Kumar

.....Petitioner

vs.

Rajinder Yadav

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Parikshit Goyal, Advocate
for the petitioner.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

Briefly stated facts of the case are that complainant Rajinder Yadav had filed a complaint under Section 138 of the Negotiable Instruments Act, against accused Rajesh Kumar in the Court of Judicial Magistrate Ist Class, Gurugram, where the accused was summoned to face trial. The complainant moved an application under Section 143-A of the Negotiable Instruments Act, for directing the accused to pay him 20% of the cheque amount as interim compensation. That application was resisted by the accused taking various objections including that of maintainability of the application, coming up with a plea that Rajender and Jagdish Yadav had induced him to do business with them, as such the accused

availed loan from ICICI Bank, where Jagdish Yadav stood as guarantor and Rajender and Jagdish Yadav received 7 blank cheques from accused in the year 2014 on the pretext that those were required for the guarantee of loan. Accused had informed the complainant that he had closed his account vide letter dated 19.1.2015 and in February 2019 he had cleared the loan amount getting the 'No Objection Certificate' from the bank. The stand taken by the accused was that Rajender and Jagdish Yadav had cheated and played fraud with him trying to transfer buses in his name by forging documents, regarding which FIR No. 1158 dated 8.10.2019, for offences under Sections 420, 406, 467, 468, 471, 506, 120-B IPC, was registered against the complainant and that the complainant had presented the cheques by forging signatures of the accused.

After hearing arguments, learned trial Magistrate had accepted the application. The relevant part of the order being as under:-

“6. In the statement of objects and reasons appended to the amendment bill, it was stated that “injustice is caused to the payee of a dishonoured cheque who has to spend considerable time and resources in court proceedings to realise value of the cheque” on account of “delay tactics of unscrupulous drawers of dishonoured cheques due to easy filing of appeals and obtaining stay on proceedings.” The amendment thus seeks to provide relief to payees of dishonoured cheques who get caught up in lengthy litigations and to discourage frivolous and unnecessary litigations.

7. Hon'ble Supreme Court of India in criminal

appeal No.1160 of 2019 in SLP (Criminal) No.3342 of 2019 in case titled as G.J. Raja Vs. Tejrāj Surana has categorically held that “Section 143-A is prospective in operation and the provision can be applied or invoked in cases where the offence under Section 138 of the Act was committed after the introduction of Section 143-A.”

8. Present complaint was filed on 28.08.2019 i.e. after the Section 143-A of NI Act came into force. In the present case notice of accusation was framed upon the accused on 15.11.2019 wherein accused pleaded not guilty. Plea of defence of the accused was also recorded on 14.12.2019. The issuance of cheques by the accused have been admitted. The remaining allegations of forgery and absence of any liability are matter of trial and cannot be decided at this stage. Keeping in view the above facts, the present case is a fit case to award interim compensation to the complainant. As a necessary corollary of the above discussion, application filed by the complainant seeking 20% of the cheque amount as interim compensation u/s 143-A of the NI Act is hereby allowed. Accused is directed to pay 20% of the cheque amount as interim compensation to the complainant on 13.03.2020.”

This order was challenged by the accused before the Court of Sessions, by way of filing a revision petition, which was assigned to Additional Sessions Judge, Gurugram, vide order dated 22.3.2021 dismissed the same, observing that in the revision petition no legal plea has been raised to assail the impugned order dated 10.1.2020 and that the plea taken by the revisionist is that he is unable to arrange the 20% of the cheque amount which is quite heavy because the cheque which was dishonoured was issued for an amount of

Rs.60,60,000/- and further even 5% of the cheque amount, which had already been paid by the revisionist was arranged by way of borrowing loan from relatives and friends. Learned Additional Sessions Judge, had observed that the impugned order passed by the trial Court could not be set aside or modified only due to the reason that the revisionist accused was not able to arrange 20% of the cheque amount and that no other legal or substantial ground had been agitated before that Court which might have suggested that the trial Court has wrongly exercised its discretion vide order dated 10.1.2020.

Now, the accused has approached this Court by way of filing the present petition under section 482 Cr.P.C.

I have heard learned counsel for the petitioner, besides going through the record and I do not find any illegality, infirmity or impropriety in the impugned orders, which might have called for interference by this Court, by way of exercising the jurisdiction under Section 482 Cr.P.C. The present petition is found to without any merit and is dismissed accordingly.

2.7.2021
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No