

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

CRM-M No.34584 of 2021

Date of Decision: 20.12.2021.

M/s Happy Fruit Company & Another

...Petitioners

Versus

M/s Ashwani Chauhan Mukand Chauhan
& Company & Another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Harish Mehla, Advocate,
for the petitioners.

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MEENAKSHI I. MEHTA, J.

By way of the instant petition, the petitioners (here-in-after referred to as “the accused”) have invoked the jurisdiction of this Court under Section 482 Cr.P.C to assail the order dated 17.03.2021 (Annexure P-1) passed by learned Judicial Magistrate Ist Class, Panchkula, in NACT No.263 of 2019 allowing the application, as moved by the respondents (here-in-after referred to as “the complainants”) under Section 143-A of the Negotiable Instruments Act, 1881 (for short “the NI Act”) and directing the accused to pay 20% of the total cheque amount of Rs.30 lacs, which comes out to be Rs.6 lacs, to the complainants within 60 days from the date of the said order as well as the order dated 07.06.2021 (Annexure P-2) passed by the Revisional Court qua the dismissal of the revision petition as preferred by the accused against the above-said order Annexure P-1.

2. Shorn and short of unnecessary details, the facts, as revealed from the documents available on the record and culminating in the filing of the instant petition, are that the complainants traded in the sale of apples. Accused No.2, on behalf of accused No.1-Firm, purchased the boxes of apples worth Rs.34,21,949/- from the complainants on different occasions vide the separate bills. To discharge their liability to pay the above-said amount, accused No.2 paid a sum of Rs.4,21,949/- to the complainants in cash and issued four cheques for the balance amount of Rs.30 lacs on different dates but however, when presented in the concerned Bank, these cheques were dishonoured due to “Insufficient Funds” in the relevant bank account. The complainants served the legal notice to the accused in this regard but they did not pay even a single penny to the complainants. Then, the complainants filed the above-said Complaint Case against them under Section 138 of the NI Act.

3. Accused No.2 put in appearance before the trial Court in the said Complaint Case and the notice of accusation was served upon him and he pleaded not guilty to the same. Thereafter, the complainants moved the application under Section 143-A of the NI Act and the same has been decided vide the impugned order Annexure P-1 and when challenged before the Revisional Court, the said order has been upheld by way of the dismissal of the revision petition vide the impugned order Annexure P-2.

4. I have heard learned counsel for the accused-petitioners in the present petition, at the preliminary stage and have also perused the file thoroughly.

5. Learned counsel for the accused-petitioners has contended that

the accused had never purchased the boxes of apples from the complainants and therefore, there was no occasion for them to issue the cheques in question in their (complainants') favour towards the discharge of any legal liability and this fact stands corroborated by the information as sought and received by the accused from the Office of Market Committee, Panchkula under the Right to Information Act, i.e. Annexure P-7, to the effect that the copies of "J" and "I" Forms of Traders and the other relevant record were not available in the said Office and in these circumstances, it is explicit that the above-said Complaint Case is based on malafides and it being so, the accused could not be fastened with any liability to pay the interim compensation to the complainants and hence, both the impugned orders are not legally sustainable and therefore, the same are liable to be quashed.

6. However, I do not find the contentions of learned counsel for the accused-petitioners to be tenable because concededly, the afore-said Complaint Case is being tried as a summon case wherein the notice of accusation has already been served to accused-petitioner No.2 and he has pleaded not guilty to the same. Thus, the pre-requisite to order/direct the drawer of the cheques, i.e the accused, to pay the interim compensation to the complainants, as envisaged under Section 143-A (1) of the NI Act, stands fulfilled. The issues regarding the genuineness of the Bills qua the sale of the boxes of apples by the complainants to the accused and as to whether the said cheques had been issued by them (accused) towards the discharge of their legal liability to pay the price of the same, can and shall be looked into and adjudicated upon by the trial Court at the appropriate stage after appreciating and evaluating the evidence that may be led on the

record by both the parties in support of their respective contentions in this regard and the same cannot be decided at this stage.

7. Moreover, Section 143-A of the NI Act contains the exhaustive mechanism for the eventualities which may arise consequent upon the conclusion of the trial in the Complaint Case and provides that if the offender is held guilty, then the amount of fine imposed or the amount of compensation awarded in the final event shall be reduced by the amount paid or recovered as interim compensation and in case of his acquittal, the complainant shall be directed to repay the said amount to him along-with the interest thereon. It being so, the impugned orders can, by no stretch of imagination, be construed to be the abuse of the process of the Court or to be the ones which require to be quashed to secure the ends of justice, so as to exercise the inherent powers as vested in this Court by virtue of Section 482 Cr.P.C.

8. As a sequel to the fore-going discussion, it follows that both the impugned orders do not suffer from any illegality, irregularity, infirmity or perversity so as to warrant any interference by this Court and hence, the petition in hand, being *sans* any merit, deserves dismissal. Resultantly, the same stands dismissed accordingly.

9. However, it is clarified that nothing contained here-in-before shall be construed to be an expression of the opinion of this Court on the merits of the case.

December 20, 2021.
seema

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned?	Yes
Whether Reportable?	No