

THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-38821-2021

Date of Decision: September 30th, 2021

Devang Dugar

....Petitioner

Versus

Hindchem Corporation

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Ms. Seema Pasricha, Advocate, for the petitioner.

HARNARESH SINGH GILL, J.

Case is taken up for hearing through video conferencing.

By way of the present petition, the petitioner seeks quashing of the complaint dated 17.03.2020 (Annexure P.1) filed by the respondent under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act'), now pending before JMIC, Bathinda and the summoning order dated 17.03.2020 (Annexure P.2) passed in the said complaint.

Learned counsel for the petitioner submits that the complaint filed before the Court at Bathinda is not maintainable, inasmuch, the jurisdiction of the said Court is barred, as the cheque had been issued at Hyderabad and the mother account of the respondent-complainant is at Yes Bank, Nukatpally, Hyderabad and, therefore, the Court at Hyderabad alone will have the jurisdiction to try and entertain the complaint.

It is further submitted that in the complaint, the petitioner has been arrayed as respondent No.2 being the Director of P.L. Polymers Pvt. Ltd. (respondent No.1 in the complaint), but he is no longer the Director of the said Company; that he remained Director of the Company w.e.f. 30.09.2015 to 14.01.2020; that he resigned from the said position on 14.12.2019 and that his resignation was accepted on 14.01.2020. Therefore, the complaint and the summoning order, qua the petitioner, are bad in law.

It is yet further submitted that the petitioner is not the signatory of the cheque in question and therefore, no criminal liability can be fastened upon him.

While referring to Annexure P.6, it is submitted that a stamp affixed thereon by Yes Bank Ltd., Somajiguda, Hyderabad, would depict that all clearing cross stamps of the Yes Bank stood cancelled as on 29.10.2019, whereas the complainant alleges that it presented the cheque for encashment on 21.01.2020. Hence, the very presentation of the cheque at Bathinda, is not valid.

Having heard learned counsel for the petitioner, I do not find any merit in the present petition and hence, the same is liable to be dismissed.

A perusal of Bank's CTS Return Memo (Annexure P.7) would show that the cheque in question was presented for encashment by the respondent-complainant on 21.01.2020, but the same was returned un-encashed on 22.01.2017 for the reason "drawers signature differs". It is not disputed by the

petitioner that the complainant has its Branch Office at Bathinda. Therefore, the presentation of the cheque at Bathinda on 21.01.2020 does not suffer from any illegality.

In Bridgestone India Pvt. Ltd. Vs. Inderpal Singh, (2016)2 SCC 75, the Hon'ble Apex Court, has held that the place where a cheque is delivered for collection i.e. the branch of the Bank of the payee on holder in due course, where the drawee maintains an account, would be determinative of the place of territorial jurisdiction.

In view of the said fact, the presentation of the cheque at Bathinda, does not suffer from any illegality.

Coming to the second submission of the learned counsel for the petitioner. Indisputably, the petitioner remained Director of P.L. Polymers Pvt. Ltd., from 30.09.2015 to 14.01.2020. The cheque was issued on 26.10.2019, meaning thereby the petitioner was the Director of the Company, as on the date of issuance of the cheque. As per the learned counsel for the petitioner, the petitioner resigned from the Directorship of the Company on 14.12.2019, but the same was accepted on 14.01.2020, i.e. just seven days before the presentation of the cheque. Thus, once the petitioner was Director of the Company as on the date of issuance of the cheque, he cannot escape the liability for the reason that he had tendered his resignation from the Directorship, which was accepted on 14.01.2020 i.e. too just seven days prior to the presentation of the cheque.

While dealing with the third submission of the learned counsel for the petitioner, suffice it to say that a bare

perusal of the signatures on the resignation letter dated 14.12.2019 of the petitioner and the cheque in question, would show that the same appear to be similar in nature with a slight variation. If the variation was with a mala-fide intention or otherwise, can only be determined by the trial Court, on the basis of evidence led. However, on the basis of the said factual position, it cannot at all be said that the petitioner is not the signatory of the cheque in question.

The last argument of the learned counsel for the petitioner is regarding the seal affixed by the Yes Bank, Somajiguda, Hyderabad on a leaf annexed with the true typed copy of the cheque. In this regard, it may be observed that the said seal deals with the transaction between the complainant and its Banker and it has nothing to do with the petitioner. Assumed that the cheque in question, had been presented at Hyderabad, even then the second presentation at Bathinda does not suffer from any illegality as the complainant has its Bank Account with Yes Bank at Bathinda, and he does have right to present such cheque at that place.

In view of the above, I do not find any merit in the present petition and the same is hereby dismissed.

September 30th, 2021
ds

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No