

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

**CRM-M-12440-2022
Reserved on :29.04.2022
Decided on: July 18, 2022**

Rajesh Sharma**.....Petitioner(s)**

Vs.

M/s S.S. Milk Products**.....Respondent(s)****CORAM: HON'BLE M-R. JUSTICE ANOOP CHITKARA**

Present: Mr. Sandeep Arora, Advocate for the petitioner(s)

ANOOP CHITKARA J. (ORAL)

Challenging the issuance of order taking cognizance of summons in a complaint filed under Section 138 of Negotiable Instruments Act, 1881 (for short 'NIA'), the accused has come up before this Court seeking its quashing.

2. The complainant had sent a legal notice on 24.12.2020 to the accused informing him about the dishonour of the cheque amounting to Rs.5,44,199/-. On 14.01.2021 (Annexure P-5), the accused gave reply to the legal notice through his Advocate in which it was claimed that there was no legal liability and that the complaint was counter blast because the complainant had not returned jeep and deep fridger of the petitioner as such security cheque was presented.

3. Afterthat the complainant had filed complaint under Section 138 of NIA and vide impugned order dated 29.01.2021, learned SDJM, Ajnala took cognizance and proceeded further by issuing notices to the accused. The ground taken in the petition are that cheque was given as a security which was misused. In paragraph 6 of the petition, details have been mentioned about the payment made. Based on averments as mentioned in paragraphs 7 to 10, the petitioner claims that it was illegal on the part of the learned SDJM, Ajnala to take cognizance of the complaint.

4. While exercising power under Section 482 Cr.P.C. this Court cannot appreciated the evidence and that too only without hearing the opposite party.

Undoubtedly, the details of bills in para 6 seem to have been corroborated with bills' number, dates and amounts but still on this ground itself, the order of cognizance cannot be quashed.

5. However, this Court has not inclined to exercise power under Section 482 Cr.P.C. It is clarified that in case the petitioner takes this evidence in defence during the trial, then learned trial Court shall give the petitioner ample opportunity to do so.

6. The petition is dismissed with the aforesaid observations with the liberty which might lie with the petitioner to avail other remedies available to him including civil as well.

(ANOOP CHITKARA)
JUDGE

July 18, 2022
sonia arora

Whether speaking/reasoned:	Yes/No
Whether reportable:	No