

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

Criminal Misc. No.M-19845 of 2021(O&M)

Date of Decision: January 28, 2022

Sumit Kumar

...Petitioner

Versus

Tarsem Chand and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

--

Present: - Mr.PKS Phoolka, Advocate
for the petitioner.

-

HARINDER SINGH SIDHU, J.

This is a petition for quashing the Complaint bearing No.COMA/2451 of 2018 dated 04.06.2018 under Sections 138/142 of the Negotiable Instruments Act read with Section 420 IPC titled “Tarsem Chand vs. Sumit Kumar” and all further proceedings arising therefrom, qua the petitioner.

Brief facts, as detailed in the petition, are that there were cordial relations between the petitioner and the respondent. The petitioner taking the benefit of cordial relationship borrowed a sum of Rs.70,000/- from the respondent/complainant. To discharge his existing legal liability, the petitioner issued Cheque No.000020 dated 13.04.2018 for Rs.70,000/- in favour of the respondent out of his account No.01871570009083 drawn on HDFC Bank, Bathinda. The cheque on presentation, was dis-honoured.

Hence, the Complaint in question was filed by the respondent, which is pending in the Court of Ld. Judicial Magistrate Ist Class, Bathinda. The

petitioner has been summoned in the said case.

Ld. Counsel for the petitioner/accused has argued that the legal notice qua the dishonour of the cheque was sent on a wrong address. The respondent also mentioned the wrong address of the petitioner in the complaint and also wrong name of his father. Hence, there being no proper service of the legal notice to the petitioner, the complaint deserves to be dismissed.

I have heard Ld. Counsel for the petitioner and gone through the paper-book.

The petitioner had filed an application before the Trial Court for dismissal of the complaint. That application was dismissed vide order dated 22.01.2021. The relevant part of the said order reads:

“... First of all, the accused Sumit Kumar has not disputed his identity as drawer of the cheque in question. In the present application, he has not denied the fact that the cheque in question belongs to his account or that the same bears his signatures. So far as the issuance of legal notice at the wrong address of accused is concerned, the complainant has averred in his application moved on 16.10.2019 for amendment of complaint and in reply to the present application that the accused himself provided his father's name and address wrongly to the complainant. Furthermore, there is nothing on file to show that said legal notice had ever been returned to the complainant with the report of incorrect address of accused. It is also matter of record that the complainant moved an application to correct the fathers name and address of accused on 16.10.2019 when the notice of accusation was served upon accused in which accused Sumit Kumar got recorded his father's name as 'Krishan Kumar' and his address as resient of H.No.6725, Purana Thana, Gurmukh Cycle Wali Gali,

Bathinda. In place of filing reply, accused suffered statement in Court that he has no objection if said application of complainant is allowed and accordingly, application was allowed. At this stage, without appreciating the evidence which is to be led by both the parties at later stage, it cannot be determined that the accused never resided at the address at which legal notice was sent by the complainant and that the accused himself had not provided his father's name accurately.”

The order passed by the Trial Court is self-speaking and does not call for interference. Thus, the petition is dismissed.

January 28, 2022

gian

**(HARINDER SINGH SIDHU)
JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No