

In the High Court of Punjab and Haryana, at Chandigarh

C.O.C.P. No. 1721 of 2020 (O&M)

Date of Decision: 02.05.2022

Sat Paul Garg

... Petitioner(s)

Versus

Sukhdev Singh Manikhera

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Amarinder Singh Shergil, Advocate
for Mr. Navjot Singh, Advocate
for the petitioner(s).

Mr. Ankush Singla, Advocate
for the respondent.

Anil Kshetarpal, J.

1. Complaining the wilful disobedience of the undertaking given before the Judicial Magistrate Ist Class, recorded in the order dated 30.10.2018, the petitioner has filed this petition under Section 10, 11 and 12 of the Contempt of Courts Act, 1971 (hereinafter referred to as “the 1971 Act”).

2. The order dated 30.10.2018, passed by the Judicial Magistrate Ist Class, Bathinda, reads as under:-

“Accused suffered statement that he has amicable settled the case with complainant for a sum of Rs.1,48,00,000/- (Rupees one crore forty eight lakh) against the cheque in question, which is to be made to the complainant on or before 30.04.2020. In case, he default in making the payment to the

complainant, the complainant shall be at liberty to get the present complaint revived from the Court. He has issued a cheque No.094901 dated 30.04.2020 of Rs.1,48,00,000/- (Rupees one crore forty eight lakh) in favour of complainant in lieu of above said legal liability and original Amicable Settlement is Ex.DX. Thereafter complainant also suffered statement that he has heard the statement of accused made today. He has amicably settled the matter on behalf of complainant Sat Paul Garg with accused Sukhdev Singh Mahnikhera for a sum of Rs.1,48,00,000/- (Rupees one crore forty eight lakh) against the cheque in question, which is to be made by the accused on or before 30.04.2020. He has received a cheque No.094901 dated 30.04.2020 of Rs.1,48,00,000/- (Rupees one crore forty eight lakh) in favour of complainant from the accused in lieu of above said legal liability and original Amicable Settlement in Ex.DX. Photostate copy of the above said cheque is Ex.DY. As such he does not want to proceed with this case and withdraws the same. In case, accused makes default in making the payment to the complainant, the complainant shall be at liberty to get the present complaint revived from the Court. Heard. In view of the statement of complainant, present complaint stands dismissed as withdrawn. Accused is discharged and surety bonds are also discharged. File be consigned to the record room”.

3. The petitioner alleges that the respondent/accused has violated the undertaking.

4. Per contra, the learned counsel representing the respondent contends that as per the settlement deed, the petitioner is entitled to file an application for revival of the complaint. He submits that the subsequent cheque, handed over to the petitioner in terms of the settlement, was dishonoured and a fresh complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as “the 1881 Act”), has been filed.

5. Once the settlement itself makes a provision for filing of an application for revival of the complaint filed under Section 138 of the 1881 Act, it would not be proper for this Court to entertain the petition under the 1971 Act. The petitioner, if so advised, may file an application before the Judicial Magistrate Ist Class, Bathinda, for revival of the complaint.

6. With the observations made above, the present petition is disposed of.

7. The miscellaneous application(s) pending, if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

May 02, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No