

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

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**CRM-M-46193-2022 (O&M)
Date of Decision : 10.10.2022**

Weez India Entertainment Ltd. and othersPetitioners

Versus

Krishan GopalRespondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present : Mr. Sunny K. Singla, Advocate for the petitioners.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for quashing of complaint NACT No.1371-2018 titled as 'Krishan Gopal Vs. Weez India Entertainment Ltd. Etc.' filed under Section 138 of the Negotiable Instruments Act, 1881 pending before learned Judicial Magistrate First Class, Faridabad.

Brief facts of the case are that petitioners had took loan of Rs.14,77,500/- from the complainant/respondent through RTGS in the account of M/s GCTRO Health Pvt. Ltd. After advance of loan the petitioners have not return any money to the complainant/respondent. Thereafter, petitioner No.2 issued cheque bearing No.494575 dated 04.12.2017 amounting to Rs.15,00,000/- drawn on ICICI Bank Sector-8, Rohini, Delhi in favour of complainant/respondent. However, on presentation of said cheque for encashment in the respondent account, the same was dishonoured for the reason 'frozen company dissolved'.

Legal notice dated 03.01.2018 was issued to the petitioners but they failed to pay the amount of bounced cheque. Thereafter, the

complainant/respondent filed complaint under Section 138 and 142 of the N.I. Act against the petitioners.

Learned counsel for the petitioners submits that only petitioner No.2 is signatory of the cheque in question and in the entire complaint there is not even a single word regarding the petitioners No.3 and 4. The Judicial Magistrate vide its order dated 05.02.2021 wrongly summoned all the directors (petitioners No.2 to 4) of the company. The petitioners filed an application under Sections 258 and 245 of the Cr.P.C. seeking discharge of petitioners No.3 and 4 before the trial Court on 04.07.2022 which was dismissed vide order dated 29.08.2022 on the sole ground that the Magistrate has no power to review or recall its summoning order. The petitioners have filed a revision petition bearing CRR No.20/2022 under Section 397 read with Section 399 of the Cr.P.C. for setting aside the summoning order dated 05.02.2021 which is pending for 03.11.2022 before learned Additional District Judge, Faridbad.

I have heard learned counsel for the petitioners and gone through the paper-book.

It is a matter of evidence to be led before the Magistrate as to whether petitioners No.3 and 4 have any role as alleged by the complainant or not. Even otherwise, the petitioners have already availed the remedy by way of filing revision against the summoning order dated 05.02.2021 which is pending for consideration before learned Addl. District Judge, Faridabad for 03.11.2022. The petitioners had also moved urgent application dated 09.09.2022 before learned Additional District Judge, Faridabad seeking issuance of notice and

stay of trial Court proceedings. However, on the said application no interim protection was granted by the Court. The petitioners have also approached this Court through the present petition challenging the summoning order dated 05.02.2021 and therefore, the petitioners cannot be allowed to avail two remedies simultaneously before learned Additional District Judge, Faridabad and before this Court.

In view of the above, I find no merit in this petition which is accordingly dismissed.

10.10.2022
Kothiyal

(ASHOK KUMAR VERMA)
JUDGE

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