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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56645-2022

Date of decision : 05.12.2022

Hardev Singh

...Petitioner

Vs.

Sunny Bedi

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Simranjit Singh, Advocate
for the petitioner.

DEEPAK MANCHANDA, J.

Through this petition, filed under Section 482 Cr.P.C. petitioner has prayed for quashing of the Complaint bearing No.NACT-493/2022 dated 16.09.2022 (Annexure P-2) registered under Section 138 Negotiable Instruments Act, 1881 titled as "*Sunny Bedi Vs. Hardev Singh*", which is pending before the JMIC Gurdaspur as well as the summoning order dated 03.10.2022 (Annexure P-1), whereby the petitioner has been summoned under Section 138 Negotiable Instruments Act, 1881.

The facts in brief leading to the present petition are that respondent/complainant along with his wife, namely, Preeti Bedi had taken a friendly loan of Rs.2,50,000/- from the petitioner on 20.02.2018 and when the petitioner demanded his money back in the month of September, 2018, they issued a cheque bearing No.790103 dated 01.10.2018, amounting to Rs.2,50,000/- of Canara Bank, Branch Dhariwal, however, the same was dishonoured. Therefore, petitioner had moved a complaint under Section 138

Negotiable Instruments Act, 1881, against the wife of the respondent/complainant, which is still pending. Thereafter, complainant/respondent visited the office of the petitioner for compromising the matter, but when petitioner went outside with his customers for few minutes, the respondent with *mala fide* intention has stolen blank cheque bearing No.446332 i.e. the cheque in question from petitioner's office and used it by forging his false signatures and sent legal notice to the petitioner. Hence the respondent filed the present complaint against the petitioner.

Learned counsel for the petitioner contends that respondent/complainant has committed theft and by forging the signatures of the petitioner upon the cheque, tried to pressurize him to withdraw the complaint moved under Section 138 Negotiable Instruments Act, 1881, whereas petitioner has not taken any money from the respondent/complainant. He further submits that trial Court has wrongly summoned the petitioner under Section 138 Negotiable Instruments Act, 1881 without applying its judicial mind, therefore, he prays for quashing of complainant dated 16.09.2022 (Annexure P-2) as well as the summoning order dated 03.10.2022 (Annexure P-1).

I have heard learned counsel for the petitioner and have gone through the case file.

A perusal of the present case file shows that the summoning order is not on record nor the same has been challenged in the present petition and the petitioner has filed the present petition for quashing of Annexure P-1 i.e. summon/notice to the accused under Section 61 Cr.P.C and not original summoning order.

Apart from it, the Hon'ble Supreme Court in its judgment rendered in "**Rathish Babu Unnikrishnan Vs. The State (Govt. Of NCT of Delhi) & Anr.**", 2022 (2) RCR (Criminal) 871 has held as under:-

"16. The proposition of law as set out above makes it abundantly clear that the Court should be slow to grant the relief of quashing a complaint at a pre-trial stage, when the factual controversy is in the realm of possibility particularly because of the legal presumption, as in this matter. What is also of note is that the factual defence without having to adduce any evidence need to be of an unimpeachable quality, so as to altogether disprove the allegations made in the complaint.

17. The consequences of scuttling the criminal process at a pre-trial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e., the trial Court is ousted from weighing the material evidence. If this is allowed, the accused may be given an un-merited advantage in the criminal process. Also because of the legal presumption, when the cheque and the signature are not disputed by the appellant, the balance of convenience at this stage is

in favour of the complainant/prosecution, as the accused will have due opportunity to adduce defence evidence during the trial, to rebut the presumption.”

In view of the settled proposition of law by the Hon’ble Supreme Court, this is not a fit case for the quashing as the complaint is at the pre-trial stage and when the factual controversy is in the realm of possibility particularly beacuse of the legal presumptions. Further, the consequences of scuttling the criminal process at a pre trial stage can be grave and irreparable. Thus, quashing the present complaint as prayed for at preliminary stage will result in finality without the parties having an opportunity to adduce evidence. Though the petitioner has taken a plea that the cheque in question was stolen by forging his signatures on the same, but the same cannot be adjudicated in the present petition, which requires evidence in due process of law.

Resultantly, no ground is made out for invoking the inherent powers under Section 482 Cr.P.C.

The petition is dismissed.

(DEEPAK MANCHANDA)
JUDGE

05.12.2022

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No