

**HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****CRM-M-3798-2023****Date of Decision: May 18, 2023****NITIN SAXENA**

..... Petitioner

Versus

**M/S MANGAT RAM PAWAN KUMAR AND ANOTHER**

..... Respondents

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Bipan Ghai, Sr. Advocate with  
Mr. Bhupinder Ghai, Advocate and Mr. Paras Talwar,  
Advocate for the petitioner.

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**HARKESH MANUJA, J. (ORAL)**

1. By way of present petition filed under Section 482 CrPC, prayer has been made for quashing of complaint bearing No.706/2019 dated 05.08.2019 besides the summoning order dated 03.01.2020 passed by Ld. JMJC Jind.

2. On account of dishonour of cheque bearing No. 924711 dated 16.02.2016 amounting to Rs.91,50,554/-, a complaint under Section 138 of NI Act came to be filed at the instance of respondent No.1 against the petitioner as well as respondent No.2 wherein the petitioner was summoned vide order dated 03.01.2020 passed by the Court of JMJC Jind.

3. Impugning the aforesaid complaint as well as the summoning order, learned Senior counsel appearing on behalf of the petitioner assisted by Mr. Bhupinder Ghai, Advocate submits that the payment against the cheques in question already stood made to the complainant and thus the complaint as well as summoning order is

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misuse of process of law against the petitioner. It has also been contended that the cheque in question is dated 16.02.2016 whereas the petitioner resigned from directorship on 30.12.2018 i.e. much prior to the date of filing of complaint as well as passing of summoning order and thus was not liable to be summoned.

4. I have heard learned counsel for the parties and gone through the paper-book. I do not find any substance in the submissions made on behalf of the petitioner.

5. The factum of payment having been made to the complainant at the end of petitioner is a disputed question of fact which can only be gone into by the trial Court after affording opportunity to the parties to lead their respective evidence. Besides it, the cheque in question is dated 16.02.2016 and the same was dishonoured on 02.05.2016 whereas demand notice for payment was issued on 17.05.2016. On the said date the petitioner was still existing as Director of respondent No.2-Company as he resigned only on 30.12.2018 and thus cannot escape his statutory liability and was thus vicariously liable as provided under Section 141 of NI Act.

6. In view of the discussions made herein above, I find no merits in the present petition and the same is accordingly dismissed.

18.05.2023

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( **HARKESH MANUJA** )  
**JUDGE**

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|----------------------------------|---------------|
| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether Reportable</i>        | <i>Yes/No</i> |

