

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

119

**CRM-M-8689-2023
Date of decision: 17.02.2023**

Manisha Kailash Parmar

.....Petitioner

Versus

M/s Intec Capital Limited

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vaibhav Parashar, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking quashing of complaint No.331 of 2018 under Sections 138 and 141 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act') instituted on 17.02.2018 pending in the Court of learned Judicial Magistrate 1st Class, Gurugram titled as 'M/s Intec Capital Limited Vs. Manisha Kailash Pawar (Annexure P-1) along with summoning order dated 07.04.2018 (Annexure P-2) passed by the learned Judicial Magistrate 1st Class, Gurugram.

Learned counsel for the petitioner submits that the complaint in question has been instituted by the respondent-complainant with an oblique motive to harass and humiliate the petitioner. He submits the respondent-complainant filed the complaint in question against the petitioner under Sections 138 and 141 of the NI Act, however, the Court below while summoning the petitioner failed to appreciate that a loan had been borrowed by her husband from the complainant. The petitioner was neither the borrower nor guarantor of the loan and hence she could not be proceeded against under Section 139 and 118 of the NI Act. Learned counsel submits that prior to the

taking of the loan in question, by the husband of the petitioner, the petitioner had also applied for a loan and given a blank signed cheque in her individual capacity to the respondent-complainant, which was declined by them. The said blank signed cheque was not returned to the petitioner and was misused by the respondent-complainant. Learned counsel further submits that the complaint had been filed by an unauthorised person and hence, the cheque was not issued in discharge of legal liability, the complaint as well as summoning order deserved to be quashed.

I have heard learned counsel and perused the relevant material on record.

The petitioner has not disputed her signatures on the cheque. Thus, prima facie, presumption under Section 118, 139 of the Act stands attracted towards her. Whether the cheque has been misused or not as pleaded by the learned counsel, cannot be delved into at this stage and would be a matter of trial after both the parties have adduced their respective evidence. The contention of the learned counsel that the complaint had been filed by an unauthorised person of the respondent firm can also not be gone into at this stage. Whatever pleas are being sought to be raised qua the existence of legal liability would be a matter of trial and cannot be gone into at this stage by this Court. Therefore, this Court is not inclined to invoke its inherent jurisdiction under Section 482 of the Cr.P.C.

Dismissed.

17.02.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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