

2023:PHHC:117482

IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH

265-C

CRM-M-8813-2022 (O&M)

Date of Decision: 04.09.2023

M/S CLASSICAL LIGHTING INDUSTRY

... Petitioner

Versus

SHIV OM INDUSTRY

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: None for the petitioner.

None for the respondent.

HARNARESH SINGH GILL, J.(Oral)

As per the Office report, service is complete.

Today, there is no representation on behalf of the petitioner.

I have gone through the contents of the petition along with the documents annexed with it.

Prayer in this petition is for quashing of complaint bearing No.COMA-483-2017 dated 17.07.2017 filed under Section 138 of the Negotiable Instruments Act, 1881, read with Section 420 IPC titled as Shiv Om Industries vs M/s Classical Lighting Industry, pending before the Court of learned Judicial Magistrate, 1st Class, Rajpura, along with all the subsequent proceedings arising therefrom.

On 11.03.2022, on an undertaking given by the learned counsel for the petitioner that the petitioner would deposit a sum of ₹2,15,000/-, the proceedings before the trial Court were stayed by the Coordinate Bench of this Court. The order dated 11.03.2022 passed by a

Coordinate Bench of this Court, would read as under:-

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

Learned counsel for the petitioner submits that all these petitions arise out of dispute relating to cheque dishonour and the total amount of all the cheque collectively comes to Rs.2.15 lakhs (approximately).

Learned counsel submits that the petitioner is ready and willing to repay the entire amount. He submits that in order to show his bona fides, he shall submit an amount of Rs.1.15 lakhs with the Registry of this Court within a period of two weeks from today and to pay the balance amount within a period of 01 month thereafter.

Notice of motion.

Proceedings qua the petitioner before the trial Court shall remain stayed till the next date of hearing, subject to the petitioner depositing the amount with the Registry of this Court as per the statement made by learned counsel for the petitioner.

To come up for further consideration on 04.05.2022.

Photocopy of this order be placed on the file of connected cases'.

However, till date, the said order has not been complied with, inasmuch as, the cheque amount was not deposited, as would decipher from the report of the Registry.

Thereafter, vide order dated 04.05.2022 passed by the Coordinate Bench of this Court, another opportunity was granted to the petitioner to deposit the said amount, subject to payment of costs of

Rs.3,000/- with the District Legal Aid Service Authority, SAS Nagar, Mohali and the following order was passed:-

“A perusal of the office report would show that notice to respondents could not be issued for want of process fee.

Learned counsel appearing on behalf of the petitioner undertakes to file the process fee within a period of three days from today.

Let fresh notice to respondents be issued upon filing of process fee.

It is further noticed that the necessary deposit in terms of the order dated 11.03.2022 passed by this Court has not been made so far.

An undertaking on the part of the petitioner to make the alleged deposit was recorded in the order dated 11.03.2022 and the petitioner had averred that the entire amount would be deposited within a period of one and a half month from the date of passing of said order. It is evident that the petitioner has not complied with the said order of making the deposit despite the undertaking given by him.

Learned counsel for the petitioner prays for grant of two weeks' extension to deposit the entire amount in terms of the undertaking given by him.

No valid reason has been given by the petitioner for his failure in complying with the order dated 11.03.2022 despite his undertaking, however, as a concession, the petitioner is granted a period of two more weeks to make the deposit in terms of his undertaking recorded vide order dated 11.03.2022, but this shall be subject to payment of costs of Rs.3,000/- per case/petition to be deposited by the petitioner with the District Legal Aid Services Authority, S.A.S. Nagar, Mohali.

Needless to mention that in case the deposit of the

amount in terms of order dated 11.03.2022 is not made within the extended period of two weeks i.e. on or before 19.05.2022, the instant petition shall be dismissed without any reference to this Court and proceedings of recovery of costs shall be initiated by the Illaqa Magistrate/Trial Court.

To come up on 13.07.2022 for further consideration.

Photocopy of this order be placed on the files of other connected cases”.

It was specifically stipulated in the said order that in case the amount was not deposited by the petitioner and costs not paid, the present petition shall be dismissed without any reference to this Court and the proceedings of recovery of costs shall be initiated by the Illaqa Magistrate/trial Court.

However, as noticed above, till today, the aforesaid order has again not been complied with, as would decipher from the subsequent report of the Registry.

It may be noticed that the petitioner himself had undertaken to deposit the aforesaid amount. However, despite having availed two opportunities, the petitioner has failed to either deposit the said amount or the costs. It seems that the petitioner is taking the judicial process for granted. The petitioner cannot be allowed to enjoy the interim protection at the costs of violation of the orders passed by this Court.

In view of the above, this Court finds no justification to grant any further indulgence to the petitioner.

Dismissed.

04.09.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No