

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

269

CRM-M-6062-2020

Date of decision: 20.07.2023

Revital Reality Pvt. Ltd. and others

.....Petitioners

Versus

Lalman Yadav

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Amit Jain, Advocate for the petitioners.

Respondent proceeded ex-parte
vide order dated 12.05.2023.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioners are seeking quashing of Criminal Complaint No.4739 of 2018 (Annexure P-1) filed under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act') along with the summoning order dated 08.03.2018 (Annexure P-2) and all subsequent proceedings arising therefrom in view of a compromise which was arrived between the parties vide Annexure P-3 dated 14.04.2018.

2. Learned counsel for the petitioners *inter alia* contends that qua some supplies made by the respondent complainant favouring M/s Revital Reality Pvt. Ltd. (petitioner No.1), a dispute had arisen pertaining to certain payments which, however, was settled in terms of settlement deed dated 14.04.2018 (Annexure P-3). Still further, it was a matter of record that the whole outstanding amount i.e. ₹83,96,712/- stood paid by the petitioners in favour of the respondent-complainant. While drawing the attention of this Court to the contents of the settlement deed annexed as Annexure P-3, it has been submitted that a

perusal of the same reveals that the complainant had instituted 03 Criminal Complaints bearing No.2882 of 2018, 2880 of 2018 and 4739 of 2017 against the petitioners, however, on account of an inadvertent typographical error, it had been wrongly mentioned as Criminal Complaint No.4739 of 2017 instead of 2018 in the aforesaid settlement deed. On payment of the aforesaid total outstanding amount of ₹83,96,712/- by the petitioners to the complainant, the latter had agreed to withdraw all the above said complaints. Pursuant thereto, two of the three Criminal Complaints bearing No.2880 of 2018 and 2882 of 2018 were dismissed as withdrawn vide orders dated 24.02.2018 (Annexures P-5 and P-6), however, Criminal Complaint in question bearing No.4739 of 2018 was still pending adjudication. Hence, in view of the settlement deed arrived at between the parties, continuation of Criminal Complaint No.4739 of 2018, learned counsel for the petitioners has submitted, would be nothing but an abuse of the process of law. Learned counsel in support of his submissions qua whole of the outstanding amount having been already paid to the complainant in terms of the settlement deed (Annexure P-3) has drawn the attention of this Court to Annexure P-4 (colly.) wherein the payment of the outstanding amount to the complainant stands duly reflected.

3. After being put to notice by this Court on 12.02.2020, as per office report, service upon the respondent was duly effected, however, despite the case being adjourned on all the subsequent dates, none entered appearance on his behalf. On 22.09.2022, a fresh notice served and was effected upon the respondent through *dasti*, however, yet again even on the subsequent dates, there was no representation on

behalf of the respondent. Therefore, on 21.04.2023, when the case was again adjourned, it was clarified by this Court that in case there was no representation on behalf of the respondent even on the next date, he would be proceeded against ex-parte and the petition be decided on merits. Thereafter, the case was adjourned to 12.05.2023. On 12.05.2023, since yet again there was no representation on behalf of the respondent, the respondent was ordered to be proceeded against ex-parte. Hence, this Court now proceeds to decide the instant petition on merits and on the basis of material brought on record by the petitioner.

4. The contention of the learned counsel for the petitioner that the dispute between the parties stood amicably settled vide settlement deed Annexure P-3 is evident from the fact that the total outstanding amount in the sum of ₹83,96,712/- stood paid to the complainant. It indeed appears to be a typographical error that in the settlement deed, the year of institution of Complaint No.4739 has been wrongly mentioned as 2017 instead of 2018 because case No.4739 of 2017 instituted in the Court of JMIC, Gurugram, pertains to 'Gurgaon District Primary Cooperative Agriculture and Rural Development Bank, Gurgaon Vs. Parminder Kumar' whereas case No.4379 of 2018 is between the petitioners and the respondent herein, i.e. 'Revital Reality Pvt. Ltd. and others Vs. Lalman Yadav'. Hence, in view of the facts and circumstances and as already noticed that vide settlement deed (Annexure P-3) the matter was dismissed as withdrawn in the National Lok Adalat (Annexure P-6), on 22.04.2018, no useful purpose would be served in continuation of the instant complaint as it would be an exercise in futility.

5. Accordingly, the instant petition is allowed and Criminal Complaint No.4739 of 2018 (Annexure P-1) filed under Section 138 of the NI Act along with the summoning order dated 08.03.2018 (Annexure P-2) and all subsequent proceedings arising therefrom are quashed.

20.07.2023

(MANJARI NEHRU KAUL)

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JUDGE

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