IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-10369-2023
Date of Decision: 11.09.2023

Abhishek Sehgal

. . . . Petitioner

Vs.

UCO Bank

. . . . Respondent

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CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

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Present: - Mr. Damanjit Singh Sandhu, Advocate, for the petitioner.

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DEEPAK GUPTA, J.

Petitioner is facing trial under Section 138 of the Negotiable Instruments Act, 1881 [for short 'the NI Act'] in the Court of ld. JMIC, Ludhiana in a criminal complaint titled 'UCO Bank Vs. Abhishek Sehgal'.

2. During proceedings, petitioner moved an application seeking details of mobile number of one Pankaj, a bank official, from Air-tel Telecom Company. That application was rejected by ld. JMIC, Ludhiana on 15.03.2022 by passing the following order: -

> *"Personal appearance of accused is exempted for today only on the grounds mentioned in the application.*
> *Heard on application moved by the accused seeking details of mobile no. Air-tel telecom company on the name of Pankaj. It is averred in the application that in the present complaint, the blank cheque in question was taken by the complainant with cheating from the accused and after that misused the same. The concerned bank officials namely Pankaj Kumar had also sent the image of the blank cheque in question through mobile no. 9006292090 on whats app of the accused. The complainant admitted the name of the said bank officials but the complainant denied his mobile number from whom the said image of blank cheque was sent. The said disclosure can be made by the complainant or the mobile company. With*

these averments, prayer for correcting the name of the accused has been made.

Application has been contested by the complainant by filling separate reply wherein he submitted that present application is not maintainable. It is submitted that in his cross examination, the accused has admitted all the facts of the complaint. Moreover, as per the latest law on the point is that once the accused/ drawer of the cheque admits his signatures on the cheque then the same is presumed to be issued towards the legal liability of the person/ drawer. Remaining averments of the application has been denied with the prayer to dismiss the same.

Record perused. Through the present application the applicant /accused seeking permission of this court for details of mobile no. 9006292090 in the name of Pankaj. The claim of the applicant / accused is that concerned bank official had sent the image of the blank Cheque in question no. 900629090 on the whats app of the accused. The complainant admitted the name of the said bank official but complainant denied his mobile number from whom the said image of blank cheque was sent, so it necessary to disclose the mobile number of the said employee. The court is of the view that the applicant/ accused himself submitted in his plea while serving notice of accusation and while recording statement u/s 313 CrPC the cheque in question was taken as security cheque by the bank. Hence, whether the concerned bank official has sent image of blank cheque to the complainant or not, it does not make any difference. Moreover, applicant/accused have ample opportunity to lead evidence in this regard to prove his assertions made the application. The applicant-accused failed to explain any reasonable ground for allowing the present application. Hence the present application is not maintainable and same is hereby dismissed, with costs of ₹500 to be deposited in DLSA.

Now to come up on 08.04.2022 for defence evidence."

3. Revision against the aforesaid order has been dismissed by the Court of ld. ASJ, Ludhiana vide order dated 17.01.2023 (Annexure P1).

4. Dissatisfied with these orders, petitioner has approached this Court.

5. It is contended by ld. counsel that in order to prove his defence, it is required for the petitioner to bring on record details of the mobile number of Pankaj with the Air-tel Telecom Company.

6. Having heard ld. counsel for the petitioner and having perused the paper-book and the impugned orders, I find no merit in the present petition.

7. As conceded by ld. counsel for the petitioner, signatures on the cheque in question are duly admitted by the petitioner. Once it is so, presumption under Section 139 of the NI Act is available to the complainant-respondent. It is for the accused-petitioner to rebut the said presumption. Ld. trial Court has already observed in its order dated 15.03.2022 that accused-petitioner had taken the stand that cheque in question had been taken from him as a security cheque, though it was alleged that concerned bank official had sent image of the blank cheque. It will be for the accused-petitioner to prove or probabilise the said defence. It has also been observed by trial court that petitioner shall get ample opportunity to lead evidence in his defence.

8. In view of the aforesaid observation, I find no illegality in any of the impugned orders passed by the Courts below. Therefore, finding no merit in the present petition, the same is hereby dismissed.

(DEEPAK GUPTA)
JUDGE

11.09.2023
Vivek

1. Whether speaking/reasoned? ***Yes****/No*
2. Whether reportable? *Yes/No*