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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 10.03.2023

1. COCP-832-2019 (O&M)

Roopam Kumar

... Petitioner

Vs.

Vinay Girdhar and others

... Respondents

2. COCP-833-2019 (O&M)

Roopam Kumar

... Petitioner

Vs.

Vinay Girdhar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Pushpinder Kaushal, Advocate
for the petitioner.

Mr. D.D. Tuteja, Advocate
for the respondents.

ARVIND SINGH SANGWAN, J. (ORAL)

The petitioner prays for initiation of contempt proceedings against the respondents for violation of the statement made in the Court as well as the order dated 21.12.2018.

Brief facts of the case are that the petitioner filed a complaint under Section 138 of N.I. Act on account of dishonouring of a cheque of Rs.10.00 lacs. The respondents were served vide order dated 09.08.2018 and thereafter, they appeared before the trial Court on 20.12.2018 and made the following statement:-

“Stated that I have compromised the matter with the complainant against the two complaints filed against us and I agree to pay an amount of Rs.23,00,000/- as full and final settlement against the cheques of two complaints amounting to Rs.20,00,000/- i.e. cheque No.000663 dated 28.02.2018 amounting to Rs.10,00,000/- and cheque No.000664 dated 31.03.2018 amounting to Rs.10,00,000/-. Today I have handed over the cheque No.835360 dated 20.12.2018 amounting to Rs.1,50,000/- drawn at ICICI Bank Gurgaon Branch, 835361 dated 4.1.2019 amounting to Rs.1,50,000/- drawn at ICICI Bank Gurgaon Branch, 835355 dated 31.1.2019 amounting to Rs.2,50,000/- drawn at ICICI Bank Gurgaon Branch, 835356 dated 28.2.2019 amounting to Rs.2,50,000/- drawn at ICICI Bank Gurgaon Branch, 835357 dated 30.3.2019 amounting to Rs.3,00,000/- drawn at ICICI Bank Gurgaon Branch, 835358 dated 30.7.2019 amounting to Rs.6,00,000/- drawn at ICICI Bank Gurgaon Branch, 835359 dated 30.8.2019 amounting to Rs.6,00,000/- drawn at ICICI Bank Gurgaon Branch, to the complainant present in the Court.”

In pursuance thereof, the petitioner made a statement that she will

withdraw the complaint and in case the cheques are not honoured by the bank, she will be permitted to revive the aforesaid complaint. Thereafter, on 21.12.2018, the trial Court passed the following order: -

“Today, accused come present along with counsel and he handed over certain cheques to the complainant on 20.12.2018 which have been mentioned in the statement of the accused recorded yesterday and further, these cheques have been received by the complainant with the version that she should be given liberty to revive the present complaint in case the cheques which handed over in the Court on 20.12.2018 are dishonoured. Since the complainant has received the certain cheques in lieu of the cheque issued by the accused so in these circumstances, there is no reason or justification to allow the complainant to revive the present complaint in case the cheque dishonoured in future. However, the complainant is at liberty to file fresh case in case any of the cheques which have been given in this court are dishonoured in future. So, in view of the statement suffered by complainant on 20.12.2018 accordingly, case is dismissed as withdrawn. File be consigned to record room.”

Learned counsel for the petitioner submits that since the permission was granted only to file a fresh complaint against the cheques, which have been dishonoured, she could not revive the original complaint, in which the statement was made.

Learned counsel for the respondents could not dispute that none of the cheques were honoured and rather submits that since 05 complaints have been filed on account of dishonouring of all the cheques, no contempt is made

out.

After hearing learned counsel for the parties, I find that the order dated 21.12.2018 passed by the Judicial Magistrate 1st Class, SAS Nagar directing the petitioner to file a fresh complaint on the basis of dishonouring of the cheques in future, is patently illegal, as the petitioner has made a specific statement that she be permitted to revive the original complaint, in which the statement is made. Accordingly, holding that the respondents are guilty of the statement made before the Court and at this stage, this Court feels that it will be in the interest of justice that the original complaint, in which the respondents made a statement, be revived.

In view of the above, both these petitions are disposed of and the order dated 21.12.2018 is modified to the above extent. The trial Court will conclude the trial of the said complaint, which was filed way back in the year 2018, within a period of six months from today.

A photocopy of this order be placed on the file of connected case.

[ARVIND SINGH SANGWAN]
JUDGE

10.03.2023
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No