

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

241

CRM-M-11250-2019 (O&M)
Date of decision: 01.02.2023

RAM SARUP GANDHI

....Petitioner(s)

Versus

TAJINDER NARANG

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sukhandeep, Advocate for
Mr. Lokesh Sinhal, Advocate
for the petitioner.

Ms. Kuljeet Kaur, Advocate for
Mr. Gaurav Arora, Advocate
for respondent.

AMAN CHAUDHARY. J.

CRM-14324-2022

For the reasons stated in the application, same is allowed. Order dated 24.02.2022, is taken on record as Annexure P-7, subject to all just exceptions.

CRM-M-11250-2019

Present petition has been filed under Section 482 CrPC for quashing of the impugned summoning order dated 25.08.2017 (Annexure P-3) qua the petitioner passed by learned Judicial Magistrate Ist Class, Faridabad, whereby the petitioner was summoned to face trial under Section 138 of the NI Act in complaint bearing No.NACT/4173/2017 dated 25.08.2017 titled as 'Tajinder Narang Vs. M/s Crown Realtech Private Ltd and others'.

Learned counsel contends that the petitioner has no concern with M/s

Crown Realtech Pvt. Ltd., or its business therefore the question of payment of disputed cheque amount by the petitioner or liability of the petitioner does not arise. It is his further submission that the petitioner has been wrongly arrayed. He relies on Annexure P-4 (colly) being certificate issued by the Company Secretary, list of Directorship present and past of the petitioner and list of past and present Directors of M/s Crown Realtech Pvt. Ltd., as per which it is stated that the petitioner was wrongly arrayed. He relies on the judgment in the case of **P.J. Agro Tech Limited and others Vs. Water Base Limited, (2010) 12 SCC 146**, wherein Hon'ble The Supreme Court of India has held that it is very clear that in order to attract the provisions thereof a cheque which is dishonoured will have to be drawn by a person on an account maintained by him with the banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part of any debt or other liability. It is only such a cheque which is dishonoured which would attract the provisions of Section 138 of the above Act against the drawer of the cheque.

Learned counsel further submits that during the pendency of the present petition, the complainant has also suffered a statement before the learned trial Court on 24.02.2022, wherein it has been categorically stated that the petitioner is not associated with the Company M/s Crown Realtech Pvt. Ltd., and he gave up his name being unnecessary party.

Learned counsel for the respondent affirms the aforesaid fact and gives no objection based on the instructions issued by the complainant-respondent.

Heard.

In view of the above, this Court finds that the present petition

deserves to be allowed as the complainant has himself given up the name of the petitioner as being unnecessary party and that the Company M/s Crown Realtech Pvt. Ltd., is represented through three accused persons namely J.P. Gupta, Dinesh Kasana and Surender Vasudeva.

Resultantly, summoning order dated 25.08.2017 (Annexure P-3) passed by learned Judicial Magistrate Ist Class, Faridabad is quashed qua the petitioner.

(AMAN CHAUDHARY)
JUDGE

February 01, 2023

S.Sharma(syr)

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