

S. No.293

2023:PHHC:160644

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36286 of 2023

Date of Decision:14.12.2023

Rakesh Arora

.....Petitioner

Vs.

Yes Bank Limited

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Vivek Salathia, Advocate for the petitioner.

None for the respondent.

DEEPAK GUPTA, J. (Oral)

By way of present petition under Section 482 Cr.P.C., petitioner has prayed for quashing of Criminal Complaint bearing No.15881 dated 03.12.2021 (CNR No.PBLD03-048643-2021) under Section 138 of Negotiable Instruments Act, 1881 (for short, 'the NI Act') titled as "Yes Bank Ltd. Vs. Parmanand Brij Mohan and others", summoning order dated 29.03.2022 and all subsequent proceedings.

On 27.07.2023, the following order was passed by this Court:-

*"Prayer in this petition under Section 482 Cr.P.C. to quash the criminal complaint bearing No.15881, dated 03.12.2021, under Section 138 of the Negotiable Instruments Act, 1881, titled as "**Yes Bank Ltd.v. Parmanand Brij Mohan and others**", (Annexure P-1) and the summoning order dated 29.03.2022 (Annexure P-2).*

It is contended by learned counsel for the petitioner is that it is Shri Brij Mohan, the father of the petitioner, who had taken the loan from the respondent-complainant and had issued a post-dated security cheque.

Learned counsel for the petitioner contends that the father of the petitioner expired on 15.02.2021, as per Death Certificate (Annexure P-3), but by inserting dated as 24.08.2021 in the cheque (Annexure P-4), the complaint has been filed against the proprietorship firm of his father and by impleading the deceased father of the petitioner and also the petitioner.

Notice of motion for 21.09.2023.

In the meantime, further proceeding qua the petitioner shall remain stayed.”

Respondent has already been served but there is no representation on its behalf either on 21.09.2023 or today which clearly indicates that the respondent is not interested to contest the petition.

Contention of the petitioner to the effect that it was post dated cheque which has been issued by the respondent, by filling the date later on, is evident from the fact that signatory to cheque Shri Brij Mohan has expired on 15.02.2021 as is evident from death certificate (Annexure P.3) whereas date of cheque is 24.08.2021. Shri Brij Mohan was the only signatory to the cheque in question.

Having regard to the afore-said facts and circumstances of the case, the present petition is hereby accepted and Criminal Complaint bearing No.15881 dated 03.12.2021 (CNR No.PBLD03-048643-2021) under Section 138 of the NI Act, summoning order dated 29.03.2022 and all subsequent proceedings are hereby quashed qua the petitioner.

December 14, 2023
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No