

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

249

CRM M-33931-2019

Date of Decision: 20.09.2023

Pradeep Gupta and another

...Petitioner

Vs.

Yadav Poultry Farm

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Baljeet Beniwal, Advocate, for the petitioners.

Mr. Abhishek Jindal, Advocate, for the respondent.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the complaint case No. 4155 dated 24.08.2017 titled as **“Yadav Poultry Farm Vs. Global poultry Farm”** (Annexure P-1) and summoning order dated 25.08.2017 (Annexure P-3), whereby, the petitioners have been ordered to be summoned to face trial under Section 138 of the Instrument Act, 1881 (hereinafter to be referred as **‘the Act’**).

2. Learned counsel for the petitioner vehemently argued that the respondent/complainant had filed a criminal complaint under Section 138/142 of the Act against the petitioners as well as his brother Chattar Pal due to dishonor of check bearing No. 000001 dated 08.06.2017 for a sum of Rs. 90,53,600/-. He further contends

that the complaint was filed on 24.08.2017 and after recording the preliminary evidence, the petitioners and other accused were ordered to be summoned to face trial under Section 138 of the Act. Learned counsel further contended that in fact the petitioners had never issued the cheque in question to the respondent/complainant towards any liability/debt. In fact, Tarun Pal, respondent/complainant is the real brother of Chatter Pal, accused No. 5 in the present complaint. Chatter Pal and respondent/complainant colluded with each other and presented cheque illegally and ultimately the complaint was filed by the respondent against the petitioners and others for the dishonor of the cheque. Learned counsel further contended that in fact the cheque had been misused by the respondent, in connivance with his brother Chatter Pal, co-accused. As a consequence, Anil Gandhi, partner of the petitioners had filed a complaint to the police and on the basis of the said complaint, FIR No. 766 dated 02.08.2017 under Sections 406, 430, 506, 465, 468 and 120-B IPC was registered against the complainant and his co-accused Chatter Pal in Police Station Central Faridabad. As a counter blast to the said FIR, the present complaint was filed by the respondent on the basis of the forged and fabricated cheque. After the registration of the above said FIR No. 766 of 2017 (Annexure P-4), now challan (Annexure P-5) has also been presented by the police in the competent Court of law. Learned counsel appearing on behalf of the petitioner contended that in fact the cheque

books were handed over to the partner of the petitioners by them and the said cheques were misused by the complainant in the present case.

3. During the course of arguments, learned counsel for the parties have agreed that appropriate directions may be issued to club the criminal complaint No. 4155 dated 24.08.2017 titled as **“Yadav Poultry Farm Vs. Global poultry Farm”** (Annexure P-1) and the trial proceedings arising out of the FIR No. 766 dated 02.08.2017 under Sections 406, 430, 506, 465, 468 and 120-B IPC

4. Learned counsel for the petitioner further contended that he may also be granted the liberty to raise all the pleas available to him, before the trial Court at an appropriate stage.

5. I have heard learned counsel for the parties and perused the record.

6. It is not in dispute that the complainant/respondent has already filed the criminal complaint No. 4155 dated 24.08.2017 titled as **“Yadav Poultry Farm Vs. Global poultry Farm”** (Annexure P-1), which is pending before the Court of Judicial Magistrate 1st Class, Faridabad. In the meantime, the trial proceedings arising out of FIR No. 766 dated 02.08.2017 under Sections 406, 430, 506, 465, 468 and 120-B IPC are also pending before the Court of Judicial Magistrate Faridabad.

7. In fact, the subject matter of both the trials is the same, consequently, the Chief Judicial Magistrate Faridabad is directed to list both the above said trials before the same Judicial Officer of the competent jurisdiction at Faridabad. Further, the evidence in the both the cases shall be recorded separately and both the cases shall be disposed off separately, but at the same time.

8. Needless to say that the parties shall be at liberty to raise all the arguments available to them, at an appropriate stage before the trial Court.

9. Disposed off.

20.09.2023
amit rana

(N.S.SHEKHAWAT)
JUDGE

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