

204 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40262-2022
Decided on : 03.08.2023

Lakhwinder Singh

..... Petitioner

Versus

Sandeep Kumar

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. N.S.Sidhu, Advocate
for the petitioner.

Mr. Kashish Garg, Advocate
for the respondent.

Manjari Nehru Kaul, J.(Oral)

Instant petition has been filed under Section 482 Cr.PC for quashing of complaint (COMA/774/2022) dated 05.03.2022 filed under Section 138 of Negotiable Instruments Act titled as Sandeep Kumar vs. Lakhwinder Singh as well as summoning order dated 09.03.2022 (Annexure P-9) passed by JMIC, Bathinda.

Learned counsel for the petitioner while drawing the attention of this Court to Annexure P-2 *inter alia* contends that it was a matter of record that the petitioner had lost his wallet containing valuables including one blank cheque No.360192 on 08.09.2021. Thereafter an application dated 09.09.2021 (Annexure P-3) was moved by him whereby he instructed his bank to stop payment with regard to the aforementioned cheque. Learned counsel submits that it was only on receipt of legal notice dated 14.02.2022 sent by the respondent-complainant, he realized that the cheque in question had been

misused by the respondent. While placing reliance upon Annexures P-5 and P-7, it has been further submitted that subsequent to the receipt of the legal notice, the petitioner had also moved a representation before the police on 21.02.2022 and yet again followed it up with another representation on 02.03.2022 qua the misuse of his valuables including the cheque by the complainant-respondent.

Learned counsel has vehemently argued that it was thus, evident that the complainant-respondent by misusing the cheque in question had filed a complaint wherein false and fabricated allegations have been levelled against him. He has further vehemently argued that the cheque in question was not issued in discharge of any legally enforceable debt or liability, hence, the complaint as well as summoning order dated 09.03.2022 (Annexure P-9) deserve to be quashed as it was on the face of it, a blatant misuse of process of law.

Per contra, learned counsel for the respondent while controverting the submissions made by counsel opposite submits that the accused-petitioner had taken a friendly loan of Rs.3,00,000/- for a period of eight months @ 12% per annum and it was for the discharge of the aforementioned loan that the cheque in question was given by the accused-petitioner. He further submits that by concocting a false story of having lost his wallet, the petitioner was only trying to avoid payment and create defence in his favour. It has been further submitted that once the signatures on the cheque in question have not been disputed by the petitioner, a statutory presumption under Section 139 of the Negotiable Instrument Act would arise in favour of the respondent and if the

accused petitioner wants to raise any factual defence to rebut his presumption, he could raise the same during trial.

Heard learned counsel for the parties and perused the relevant material available on record.

Learned counsel for the petitioner has raised disputed questions of facts, which cannot be appreciated by this Court in the exercise of its inherent jurisdiction under Section 482 Cr.PC. Whether the cheque in question was issued in discharge of any legally enforceable debt or liability or not or whether there had been any misuse of the cheque in question by the respondent, as vehemently argued by the learned counsel for the petitioner, would be appreciated and adjudicated upon during trial after the parties lead their respective evidence.

This Court cannot be expected to delve into the merits of the submissions made by the learned counsel for the petitioner at this stage. Accordingly, the present petition stands dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

03.08.2023
sonia

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