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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-45311-2023 (O&M)****DATE OF DECISION: 12.09.2023****Naresh Kumar****...Petitioner****Versus****M/s Chet Ram Banwari Lal and others****...Respondents****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. Abhishek Sindhvani, Advocate,
For the petitioner.

ARUN MONGA, J. (ORAL)

The instant petition is under Section 482 Cr.P.C seeking quashing of complaint No.NACT-968 of 2018 under Sections 138 and 141 of Negotiable Instruments Act, 1881 (for short "N.I Act") titled 'M/S Chet Ram Banwari Lal v. M/s Monika Freshway Foods Pvt. Ltd.', instituted on 20.12.2018, pending in Court of learned Chief Judicial Magistrate, Jind.

2. Plea of the petitioner is that the complainant firm, M/s. Chet Ram Banwari Lal, is engaged in the business of commission agency and the sale of agricultural products such as paddy, wheat, barley, etc., on both cash and credit bases. Petitioner is the Managing Director of respondent No.3, M/s. Monika Freshway Foods Pvt. Ltd., and, in conjunction with respondent No.2, Ramesh Sharma (Director of respondent No.3), purchased paddy from the complainant firm on various dates, agreeing to settle the payment within ten days from the paddy's delivery to respondent No.3's premises. As of March 31, 2017, an outstanding sum of Rs.1,62,83,373.11 remained unpaid. To meet their financial obligation, cheques were issued, but upon presentation, they were returned with the notation "NPA Account, no balance in the account." Consequently, a complaint was filed.

3. Learned counsel for the petitioner contends that petitioner was not aware of lapse in payments. He further contends that cheques in question were issued on 16.11.2016, i.e. after the resolution (Annexure P-8) was passed by the Board of Directors that respondent No.2 would be the authorized signatory in all manners. He relies on affidavits dated 16.11.2016 (Annexure P-9 to P-11) deposed by the petitioner in this regard.

3.1 Learned counsel further contends that petitioner is not a beneficiary, in any manner, whatsoever, of the transactions in question. He was only a nominee director in the company and cheques in question were not issued by him.

4. Heard.

5. There are disputed facts stated in the complaint as also in the instant petition, which cannot be verified without proper trial and the same cannot be summarily adjudicated upon by this Court in quashing petition. Charges have already been framed by the court below. Trial is already at stage of recording of after-charge evidence. Instant petition for quashing of complaint cannot be entertained, at this belated stage.

6. In the totality of circumstances, no grounds worthy of interference are made.

7. Dismissed.

8. However, learned counsel for the petitioner makes an oral request that personal presence of the petitioner may be exempted as no allegations have been leveled by name and no purpose would be served to keep him personally present on each and every date of hearing, merely because he had accepted to be a nominated person at the instance of another Director who is known to him.

9. The scope of instant petition is *qua* quashing of criminal complaint and I am not inclined to accept the said oral prayer made by

learned counsel for the petitioner. It is, however, expected of learned trial Court that, in case, petitioner moves any such application for exemption from personal appearance, same shall be decided as expeditiously as possible before proceeding further in trial.

10. Pending application(s), if any, shall also stand disposed of.

SEPTEMBER 12, 2023

Shalini

(ARUN MONGA)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No