IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-50577-2022 (O&M)
Date of Decision : 01.03.2023

Amit Babbar .... Petitioner

Versus

Vishal Jindal .... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Maninder Arora, Advocate for the petitioner.

ASHOK KUMAR VERMA, J. (ORAL)

CRM-9581-2023

For the reasons mentioned in the application, the same is allowed and copies of zimini orders filed by the petitioner are taken on record as Annexure P-6.

CRM-M-50577-2022

The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of compliant bearing No.COMA-1722-2019 titled as 'Vishal Jindal Vs. Amit Babbar' filed under Sections 138 of the Negotiable Instruments Act, 1881 (for short 'the N.I. Act') and all consequential proceedings arising therefrom.

Brief facts of the case are that the respondent/complainant has filed the above-said complaint against the petitioner/accused alleging that the respondent/complainant is running a business in the name and style of Modern Rice Industry, Ambala City and the petitioner/accused is running the business of Mobiles in the name and style of Babbar Mobile Store, Near Jagadhari Gate, Ambala City. They are known to each other. The petitioner/accused approached the respondent/complainant for some financial help on which the respondent/complainant gave amount of Rs.12,00,000/- to the petitioner/accused and he promised to return the same upto December, 2017. On the repeated demands, the petitioner/accused issued a cheque dated 20.05.2019 amounting to Rs.5,00,000/- in favour of the respondent/complainant for discharge of his liability. On presentation of the said cheque, the same was dishonoured by the bank with remarks 'Payment Stopped by Drawer". The respondent/complainant had got served a legal notice dated 12.06.2019 upon the petitioner/accused. However, the petitioner/accused had not paid the money to the respondent/complainant.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. No offence is made out against the petitioner. The petitioner was merely working as an employee in the firm Babbar Mobile Store. The cheque in question was signed by the petitioner being authorized signatory and not as an account holder or proprietor or partner of the above-said firm. The respondent was well aware about this fact but he has not impleaded the proprietor of the firm as an accused in the complaint. The petitioner cannot be made liable to maintain the balance in the account which is not in the name of the petitioner.

I have heard learned counsel for the petitioner and gone thorough the paper-book.

A perusal of the complaint, as well as order dated

09.07.2019 (Annexure P-5) passed by the trial Court, shows that prima-facie all ingredients of offence under Section 138 of the N.I. Act are made out, inasmuch as the cheque which was issued by the petitioner was dishonoured on presentation with the remarks 'Payment Stopped by Drawer'. Statutory notice in this regard was also issued to the petitioner and after expiry of the stipulated period under the Act and upon failure of the petitioner to make the payment of the cheque amount, the complaint has been filed.

In so far as the contentions of learned counsel for the petitioner are concerned, they would at the best raise disputed questions of fact which would be gone into by the trial Court after recording evidence in that regard. Moreover, the summoning order was passed on 09.07.2019 and the petitioner has filed the present petition on 28.10.2022 after a delay of more than 02 years.

In view of above, the present petition stands dismissed.

01.03.2023 **(ASHOK KUMAR VERMA)**
kothiyal **JUDGE**

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No