

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.117

Case No. : CRM-M-55113-2022

Date of Decision : February 03, 2023

Kamaljit Kaur Petitioner

vs.

Arora Sons Creations Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Sanjeev Kumar Arora, Advocate
for the petitioner.

* * *

GURBIR SINGH, J. :

This is a petition under Section 407 read with Section 482 Cr.P.C. for withdrawal of the complaint dated 05.07.2018 under Section 138 of the Negotiable Instruments Act, 1881 bearing **COMA No.284 of 2018** titled as **Arora Sons Creations vs. Kamaljit Kaur**, pending in the Court of Judicial Magistrate Ist Class, Phul, District Bathinda and for entrustment of the same to some other Court of competent jurisdiction at Bagha Purana, District Moga.

Learned counsel for the petitioner states that the petitioner, along with her husband, has been running a retail cloth shop in the name and style of Brar Cloth House at Village Rajeara, District Moga. The respondent has been running wholesale cloth business in the name of style of Arora Sons Creations, Bhagta Bhai Ka, District Bathinda. The said firm is a proprietorship firm and Surjit Singh is the sole Proprietor of the same.

The respondent had been supplying the clothes to the petitioner.

On 22.06.2016, respondent Surjit Singh along with his wife went to the petitioner and her husband and disclosed that they need white money and succeeded in getting some blank signed cheques from the petitioner. It was agreed that the respondent would continue to supply the clothes to the petitioner against sale of clothes, failing which he would pay interest @ 18% per annum. Later, respondent supplied clothes to the petitioner only for part of the amount but failed to compensate the full amount of Rs.26,30,000/- taken by him from the petitioner.

On 14.09.2017, petitioner submitted a representation to the SSP for registration of case against the respondent and his wife for recovery of the said amount but police did not take any action on that representation.

On 16.09.2017, a legal notice was served upon the respondent to pay the outstanding amount of the petitioner along with interest.

As a counter blast, respondent started filing frivolous complaints against the petitioner and her husband alleging therein that they have not paid some amount against the purchase of clothes. One such frivolous complaint was filed before SHO, Police Station Bhagta Bhai Ka, District Bathinda. As the petitioner and her husband were being called to the Police Station time and again, at the instance of the respondent, the petitioner and her husband again served a legal notice dated 13.10.2017 upon the said SHO to file/close the complaint submitted by respondent. On receipt of the said notice, complaint submitted by the respondent was closed/filed by the SHO, Police Station Bhagta Bhai Ka.

In similar manner, once again, complaint filed by the respondent against the petitioner was got filed by the petitioner after serving

legal notice dated 07.11.2017 upon the Incharge, E.O.Wing, Bathinda.

The petitioner and her husband have also filed a suit for rendition of account and to recover the due amount from the respondent in the Court of Additional Civil Judge (Senior Division), Bagha Purana.

It has been further stated that the respondent is an influential person. Since the petitioner and her husband were repeatedly being called by CIA Staff, Bathinda for inquiry, a representation was submitted by them before SSP Bathinda for taking action against concerned officials and for directing the CIA Staff to take action against respondent for filing false applications time and again despite the fact that the Civil Suit was pending between the parties.

A direction was also given by this Court vide order dated 13.03.2018 (Annexure P-7) to SSP, Moga to look into the matter but in spite of these directions, the police did not do anything.

Faced with this situation, in order to put pressure upon the petitioner and her husband, respondent started presenting blank cheques after filling therein the dates and amounts on his own. Resultantly, the cheques got dishonoured and frivolous complaints under Section 138 of the Negotiable Instruments Act were got filed by the respondent. The petitioner, on receipt of notice dated 31.05.2018, appeared in the Court and pleaded not guilty to the notice of accusation. Respondent has filed about 12 complaints against the petitioner at Phul, Bathinda but the sole object was to harass the petitioner. The distance between Rajeara, Tehsil Baghapurana, District Moga and Phul, District Bathinda is about 65 kilometer. The petitioner is also victim of polio and is handicapped. It is

very difficult for the petitioner to travel to Phul to attend proceedings in the complaint filed against her with twin infants i.e. two female children born on 12.05.2021. The respondent is resident of Bhagta Bhai Ka, Tehsil Phul, District Bathinda which is at a distance of about 20 kilometer from Baghapurana, District Moga, whereas the distance between Bhagta Bhai Ka and Phul is about 35 kilometers. It is further averred that the respondent will not suffer any inconvenience if the case is transferred from Phul to Baghapurana as he has already been appearing there in the suit filed by the petitioner and her husband. It is also not safe for the petitioner to visit Phul to attend the hearing of the case because of the cruel behaviour of the respondent. The petitioner has serious apprehension at the hands of respondent as due to her non-appearance before the Court, her bail has been cancelled vide order dated 29.10.2022. It is also worth mentioning that the petitioner has already filed a quashing petition before this Court bearing **CRM-M-13481-2021** titled as **Kamaljit Kaur vs. Arora Sons Creations** for quashing of complaint and summoning order dated 24.08.2018.

Heard.

From the allegations mentioned in the petition, it is revealed that the petitioner was running a retail cloth shop in the name and style of Brar Cloth House at Village Rajeana, District Moga. Since the petitioner is herself running the shop and doing the day-to-day working at the shop, so, it is not difficult for her to attend the Court. The shop of the respondent falls in the area of Phul and the complaint was filed before the Judicial Magistrate Ist Class, Phul, having jurisdiction of that area. A complaint

accused had to travel 30-40 kilometers more to reach the Court. When a person can go to a particular place for business, then he/she cannot say that it is difficult to attend Court there and case be transferred near his/her place. It is an attempt to chose the Forum where the petitioner wants to get the complaint transferred. Such a practice cannot be appreciated. The petitioner is not concerned about her security. There is a rule of law prevalent in Phul as well as Bagha Purana. If the petitioner has an issue, she can move an application to the concerned police authority for her security but that is not a ground to seek transfer of her case, especially when she is being represented through her counsel.

Accordingly, without commenting upon the merits of the case, the present petition being without any merit, is hereby dismissed.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

February 03, 2023
monika

(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>