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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-59264-2022 (O&M)

Date of decision: 28.07.2023

Simranjeet Singh

....Petitioner

versus

Gurmeet Kaur and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Simranjeet Singh, petitioner in person.Respondent No.1 in person with
Mr. Mandeep Singh Sachdev, Advocate.

ARUN MONGA, J. (ORAL)

The instant petition has been filed under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking quashing of impugned order dated 05.07.2019 (Annexure P-1) passed by learned Judicial Magistrate First Class, Samrala in case titled 'Gurmeet Kaur Vs. Simranjeet Singh' vide which petitioner was summoned under Section 420 of Indian Penal Code.

2. Succinct facts first, as pleaded in the petition.

2.1. Petitioner is husband of respondent No.1/complainant-Gurmeet Kaur. Due to their temperamental differences in their matrimonial life, respondent/complainant deserted the company of petitioner and withdrew herself from matrimonial life since 22.05.2012. Since then, respondent/complainant is residing separately and she filed various cases against the petitioner. One petition under Section 125 Cr.P.C. for grant of maintenance was also filed. Interim order for maintenance was passed by learned trial Court and petitioner was paying the maintenance amount. At one stage, payment was made through cheque dated 18.09.2015 for an amount of Rs.10,000/- . However, the said cheque was dishonoured. On the basis thereof, present complaint in question was filed by the complainant in which petitioner was summoned under Section 420 IPC by learned trial Court. Hence, the instant petition.

3. Vide order dated 20.12.2022, while issuing notice of motion, following order was passed by my learned brother Sandeep Moudgil. J., as he then was seized of the matter:

“Petitioner has appeared in person and submits that the amount involved in the cheque, in question, to the tune of Rs.10,000/-, for which the petitioner has now been summoned by the Court of learned Judicial Magistrate Ist Class, Samrala, the said amount stands paid to the complainant, as has been recorded in the order dated 31.08.2016 (Annexure P-2), passed by SDJM, Samrala.

He further submits that once the amount has been paid, since the cheque was dishonoured on account of insufficient funds in the account of the petitioner-accused, the complainant has still went ahead to pursue the present complaint under Section 125 Cr.P.C., and the said offence has not been made out inasmuch as no ingredients of cheating is involved on the part of the petitioner.

Notice of motion for 11.04.2023.

Further proceedings pending before the learned trial Court in complaint titled as 'Gurmeet Kaur versus Simranjit Singh', shall remain stayed.”

4. Case herein arises out of dishonour of a cheque of Rs.10,000/- paid by the petitioner, who is stated to be a practicing Advocate at Jalandhar and whose marriage has fallen on rocks and arising therefrom are multifarious litigations between the parties. It is stated that cheque was given towards arrears of maintenance which is payable @6000/- per month.

5. Learned counsel appearing on behalf of respondent-wife submits that it is not a solitary instance of dishonour of cheque of Rs. 10,000/- and the petitioner is a habitual defaulter and does not deserve concession from this Court.

6. Be that as it may, petitioner states that he was under some financial hardship in the past due to which the cheque was dishonoured and the default was unintentional and therefore, petitioner offers to pay a sum of Rs.50,000/- towards up-to-date arrears of maintenance which has been given to the wife in cash, who is present in the Court.

7. As regards dishonour of cheque, petitioner has paid a cash amount of Rs.10,000/- to respondent-wife. At the asking of the Court, petitioner has also paid an additional amount of Rs.15,000/- as penalty arising of the dishonour of cheque.

8. Being so, I am of the view that since the real dispute is matrimonial in nature, no useful purpose will be served to continue the proceedings arising out of the dishonour of cheque. In any case, as per the provisions of the Negotiable Instruments Act, 1881 petitioner has already paid more than twice the amount of cheque, as noted hereinabove. The parties may get adjudicated their matrimonial differences in other pending litigations in order to prevent the abuse of process of court and to secure the ends of justice, the instant proceedings which are arising out of the present complaint and impugned summoning order dated 05.07.2019 (Annexure P-1) are quashed with consequences to follow.

9. Disposed of accordingly.

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

(ARUN MONGA)
JUDGE

28.07.2023

Vandana

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