

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(113)

CRM-M-128-2023

Date of Decision: 06.01.2023

Madan Lal Bhardwaj

--Petitioner

Versus

Ajmer Singh

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. S.K. Singla, Advocate for the petitioner.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under 482 Cr.P.C praying for quashing of impugned order dated 24.11.2021 (Annexure P-3) passed by the learned SDJM, Malerkotla in complaint under section 138 of N.I. Act bearing NACT No.536 of 2019 instituted on 3.8.2019 titled as “Ajmer Singh Vs. Madan Lal”.

The brief facts of the case are that respondent filed a complaint under Section 138 of Negotiable Instruments Act against the petitioner alleging that he borrowed a sum of Rs.10 lakh from him in the first week of February, 2019 and to discharge the said liability issued two postdated cheques to him. However, when the cheques were presented for encashment the same were returned with the remarks “Funds Insufficient”. Thereafter, complaint was filed against the petitioner and vide order dated 9.3.2021 he was summoned to face trial. Thereafter, petitioner appeared before the Trial Court and was granted bail. He was also directed to pay 20% of the cheque amount as interim compensation to the complainant vide impugned order dated 24.11.2021.

Learned counsel for the petitioner submits that before passing the impugned order, no opportunity was granted to the petitioner to file his

response despite the fact that he had not pleaded guilty to the notice of accusation served upon him under section 138 of Negotiable Instruments Act. It is further submitted that the order passed by the learned Trial Court being non-speaking and contrary to settled position of law, deserves to be set aside. To strengthen his arguments, counsel has placed reliance upon the judicial precedents in ***CRM-M-54345-2021 (Ranbir Chand @ Ranvir Chand Singla Vs. State of Punjab & another) decided on 5.5.2022, Gura Singh Vs. Gagandeep Singh, 2022(3) PLR 98*** and ***M/s Jsbs Cargo and Freight Forwarder Pvt. Ltd. Vs. State & another, 2022(1)DCR 487.***

After hearing counsel for the petitioner at length and perusing the record, this court is of the view that the present petition can be disposed of without issuing notice to the opposite party. The court finds that no opportunity was given to the petitioner to file his response before passing the impugned order despite the fact that he had not pleaded guilty to the notice of accusation served upon him under section 138 of Negotiable Instruments Act. The impugned order further reveals that the interim compensation under section 143(A) of Negotiable Instruments Act was granted in a mechanical manner without application of mind, which is against the settled position of law. Hon'ble Delhi High court in case of ***M/s Jsbs Cargo (supra)*** has held that the provision of Section 143(A) of N.I. Act is only directory in nature.

In view of the above position, this court is of the opinion that the impugned order dated 24.11.2021(Annexure P-3) deserves to be set aside only with regard to the deposit of interim compensation of 20% of the cheque amount. Ordered accordingly.

The matter is remanded back to the learned Trial Court for a decision afresh regarding grant of interim compensation to the complainant/respondent in accordance with law after providing an opportunity to the petitioner to file his response

Petition is disposed of in the above terms.

(RAJESH BHARDWAJ)
JUDGE

06.01.2023

lucky	Whether speaking/reasoned:	Yes/No
	Whether Reportable:	Yes/No