

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**CRM-M No. 8125 of 2022 (O&M)  
Date of Decision: 15.02.2024**

Amit Jain  
..... Petitioner  
**Versus**  
Sachin Gupta and others  
..... Respondents

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Johan Kumar, Advocate,  
for the petitioner.  
  
None for respondent No. 1.  
  
None for respondent Nos. 2 & 3.  
  
None for respondent No. 4.

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**HARKESH MANUJA, J. (ORAL)**

The petitioner, by way of present petition filed under Section 482 of the Code of Criminal Procedure, seeks quashing of criminal complaint No. NACT/6823 dated 23.05.2018 (Annexure P-1), titled “Sachin Gupta Versus M/s. Try Web Technologies Pvt. Ltd. & Ors.”; further summoning order dated 23.05.2018 (Annexure P-2); and subsequent proceedings arising therefrom.

[2] Brief facts of the case are that the petitioner was erstwhile Director of M/s. Try Web Technologies Pvt. Ltd. (respondent No. 2) from 29.09.2016 to 31.07.2017. A complaint under Section 138 of the Negotiable Instruments Act (hereinafter to be referred as “NI Act”) came to be filed against him besides above said company and other Directors. It was alleged in the complaint that the Company is running an online trading business on

commission basis, for which the alleged accused have taken Rs. 35,650/- from the complainant, but the above said scheme floated by accused failed and thereafter, the complainant-respondent No. 1 (Sachin Gupta) requested the Company to return his amount. Consequently, a cheque No. 000242 dated 06.02.2018, amounting to Rs. 45,138/-, drawn in ICICI Bank, Sector-15, Faridabad from the account of respondent No. 2-Company was issued in favour of the complainant-respondent No. 1, which on its presentation to the complainant's Bank, was dishonoured due to "Funds Insufficient" on 09.04.2018. Thereafter, on the basis of allegations made in the complaint and evidence given by way of affidavit of complainant and documents attached therewith, the petitioner alongwith other accused was summoned by the learned trial Court vide order dated 23.05.2018 (P-2). Hence, the present petition.

[3] Learned counsel for the petitioner submits that the petitioner remained as Director of the Company from 29.09.2016 to 31.07.2017 and the cheque in question (bearing No. 000242 dated 06.02.2018, Rs. 45,138/-) was a post dated cheque and when the cheque was presented and dishonoured, by that time, the petitioner ceased to be a Director. He further submits that even there is no averment in the complaint which would suggest that how the petitioner was incharge and respondent for the conduct of business of the Company to attract the liability under Section 138 read with Section 141 of NI Act and in that situation, the petitioner, who resigned as a Director before presentation and dishonour of cheque, cannot be prosecuted for the post dated cheque issued by the Company.

[3.1] Learned counsel also submits that the complaint proceedings arising out of the aforesaid complaint bearing CIS No. NACT/6823/2018 have already been dismissed for want of prosecution.

[3.2] Learned counsel also contended that the issued involved herein is squarely covered by judgment dated 28.04.2023 rendered by this Court CRM-M-48762-2021, titled “Amit Jain Versus Hare Ram Sharma and others”, vide which the complaints, summoning order as well as all consequential proceedings arising therefrom were quashed.

[4] On the other hand, no one has chosen to appear on behalf of either of the respondents.

[5] I have heard learned counsel for the petitioner and gone through the paper-book.

[6] It transpires that this Court has already dealt with the similar issue(s) involved herein by deciding a batch of 17 criminal petitions, lead case of which was **CRM-M-48762-2021**, titled “**Amit Jain Versus Hare Ram Sharma and others**”, whereby similarly situated complaint(s) as well as summoning order(s) were quashed. Relevant para Nos. 12 to 14 thereof are re-capitulated hereunder:-

*“12. In view of the discussion made herein above, this petition is allowed and complaint dated 08.03.2018, summoning order dated 24.04.2018 as well as the consequential proceedings arising therefrom including order dated 22.01.2020 vide which petitioner was declared as proclaimed person are quashed qua the petitioner. Similarly, in other cases as well, petitioner has resigned from the post of Director much prior to the presentation and dishonour of the cheques, therefore, the other*

*petitions are also allowed. Complaints, summoning orders as well as the consequential proceedings arising therefrom in all other cases are also quashed qua the petitioner. In addition to that in CRM-M-52110-2021, CRM-M-52321-2021 & CRM-M-52715-2021, orders vide which petitioner was declared as proclaimed person are also quashed.*

- 13. It is mentioned by the learned counsel for the petitioner that in CRM-M-52321-2021 and CRM-M-7752-2022, complaint proceedings before the Trial Court have already been dismissed for want of prosecution, therefore in these cases, if application is made before the Trial Court for their restoration, the same shall not be entertained qua the petitioner in view of this order.*
- 14. In CRM-M-53920-2021, complaint proceedings before the Trial Court have been dismissed as withdrawn on the basis of compromise, therefore it is disposed off as infructuous.”*

[7] In view of the above, by applying the ratio of decision dated 28.04.2023 passed in ***Amit Jain’s case (supra)***, the present petition is also **disposed off** in the said terms.

**February 15, 2024**  
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**( HARKESH MANUJA )**  
**JUDGE**

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|----------------------------------|---------------|
| <i>Whether Speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether Reportable</i>        | <i>Yes/No</i> |