

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.12164 of 2024

Date of decision: 7th March, 2024

M/s Honey Yarns & another

... Petitioners

Versus

Seema Aggarwal

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Aditya Dassaur, Advocate for the petitioners.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking quashing of complaint dated 26.09.2019 (Annexure P-2) moved by the respondent under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as, 'the Act') pending before learned Judicial Magistrate 1st Class, Ludhiana along with all subsequent proceedings arising therefrom including the summoning order dated 27.09.2019 (Annexure P-4).

2. Learned counsel for the petitioner inter alia asserts that the entire dispute stems from a rental agreement executed on 20.10.2016 between the petitioner and the complainant. As per the allegations leveled in the complaint, the agreed rent for the property in question was fixed at ₹15,000/- per month with a 5% annual increase. Based on this calculation, the total amount which would be due would have been ₹4,57,837.50. However, the cheque in question was for an amount of

₹5.00 lacs only, exceeding the owed sum. Therefore, there was no legally enforceable debt or liability on the part of the petitioner at the time of the presentation of the cheque in question. Learned counsel, thus, submits that in the circumstances, not only the complaint in question deserves to be quashed but even the summoning order (Annexure P-7) is totally unwarranted which also deserves to be set aside. In support, reliance has been placed upon **‘Dashrathbhai Trikambhai Patel vs. Hitesh Mahendrabhai Patel & another’ 2023(1) SCC 578.**

3. I have heard learned counsel for the petitioner and perused the relevant material on record.

4. Undoubtedly, Section 482 of the Cr.P.C. bestows extensive extraordinary powers upon this Court. Nevertheless, these powers have to be exercised sparingly and with utmost caution. At this stage, the Court is precluded from delving into the defence of the accused or even scrutinizing the veracity of the allegations leveled in the complaint; the sole concern of a Court at this stage is to see whether a prima facie case is made out or not.

5. Adverting to the case in hand, the petitioner has not disputed the existence of a rent agreement between the parties, nor has he disputed his endorsement/signatures on the cheque in question, thus, invoking the presumption under Section 139 of the Act. The petitioner has merely contended that the rent liability amounts to ₹4,57,837.50, and not ₹5.00 lacs. However, a perusal of the complaint annexed as Annexure P-2

reveals that the rent for the premises in question was to be ₹15,000/- per month besides payment of house tax, electricity charges etc. Thus, whether the outstanding amount owed by the petitioner to the complainant is ₹5.00 lacs or not, is a matter of trial, which can only be determined when both the parties lead their respective evidence before the trial Court; it cannot be conclusively determined by this Court while exercising its powers under Section 482 of the Cr.P.C. The case law cited by the petitioner would not come to his rescue as the observations made therein by Hon'ble the Supreme Court were after the conclusion of the trial and consequent to the acquittal of the accused. Entertaining such arguments at the summoning stage would be untenable in law. As a sequel to the above, this Court is not inclined to grant the relief as prayed for by the petitioner. The petition stands dismissed in limine.

6. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

March 7, 2024
rps

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