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

CRM-M-18430-2024

Date of Decision:- 25.07.2024

J.K. Garments

....Petitioner

Versus

M/s SSS Services Pvt. Ltd. and Another

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

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

AMARJOT BHATTI, J.

1. Petitioner J.K. Garments through its Proprietor Mr. Ram Singh filed petition under Section 482 of Cr.P.C. for quashing of summoning order dated 29.09.2018 passed by learned Judicial Magistrate Ist Class, Gurugram, Annexure P-1, in complaint No. NACT/9419/2018 dated 08.05.2018, titled as “M/s SSS Services Pvt. Ltd. Vs. M/s Langley Apparel India Pvt. Ltd. & Anr.” along with quashing of aforesaid complaint, Annexure P-3.

2. Learned counsel for petitioner argued that petitioner has no concern regarding issuance of cheque in dispute in favour of respondent No. 1/complainant. Their concern has no liability towards respondent No.1/complainant and there was no occasion for issuance of cheque in dispute to the tune of Rs. 20 lakhs. In-fact said cheque was handed over to respondent No. 2 by way of security at the time of execution of work Agreement dated 03.08.2017, Annexure P-2, between present petitioner

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J.K. Garments and respondent No. 2 M/s Langley Apparel India Pvt. Ltd. Present complaint has been filed by respondent No. 1/complainant by narrating wrong facts that there was service agreement between respondents and in that connection respondent No. 2 issued cheque in dispute to discharge liability of respondent No. 1. Present petitioner had no liability towards respondent No. 1/complainant nor he received any notice. There was no proper appreciation of facts and documents on record and summoning order dated 29.09.2018, Annexure P-1 qua present petitioner was passed without any valid reason. On this ground, present petition has been filed for quashing of summoning order dated 29.09.2018, Annexure P-1 along with criminal complaint under Section 138 of Negotiable Instruments Act (for short 'NI' Act), Annexure P-3.

3. I have considered the stand taken by learned counsel for petitioner. No purpose will be served by issuing notice to respondents as petitioner has placed on record copy of complaint along with documents relied upon before learned Magistrate. Learned counsel for petitioner confirmed that no revision has been preferred against summoning order dated 29.09.2018, Annexure P-1. Copy of complaint under Section 138 of NI Act is Annexure P-3, in which complainant took the stand that M/s Langley Apparel India Pvt. Ltd. - accused No. 1/respondent No. 2 and J.K. Garments – accused No. 2/petitioner is its sister concern. Therefore, cheque in question was issued by J.K. Garments - accused No. 2 on behalf of M/s Langley Apparel India Pvt. Ltd. - accused No. 1, duly signed by Mr. Ram Singh, Authorized Signatory of accused No. 2/petitioner. On the other hand, present petitioner took the stand that he has no concern with

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complainant/respondent No. 1 or towards the alleged liability of respondent No. 2/accused No. 1 towards respondent No. 1/complainant. This fact can be adjudicated on recording of evidence of both the parties during course of trial.

Apart from copy of complaint, there is service Agreement between both respondents, which is relied upon at the time of recording of pre-summoning evidence. Copies of invoice and ledger were also produced on record. Copy of cheque in dispute is also on record, which is signed by Ram Singh for J.K. Garments in favour of SSS Services Private Limited dated 13.03.2018 for a sum of Rs. 20 lakhs. It is not disputed that cheque was dishonoured vide memo dated 15.03.2018 with remarks “PAYMENT STOPPED BY THE DRAWER” and ultimately complaint was filed under Section 138 of NI Act. In support of this complaint, Jatin Arora had filed his affidavit in pre-summoning evidence on the basis of which impugned summoning order dated 29.09.2018, Annexure P-1 was passed. At the stage of summoning, only statement of complainant and supporting documents are considered. Apparently, cheque in dispute is signed by Ram Singh for J.K. Garments i.e. present petitioner. Even otherwise, as per Section 139 of NI Act, there is a presumption in favour of holder of cheque which is rebuttable presumption. Therefore, complaint can be adjudicated by trial Court on merits only. Consequently, I do not find merits in present petition with prayer of quashing of summoning order dated 29.09.2018 (Annexure P-1) along with complaint filed under Section 138 of NI Act and petition is accordingly dismissed.



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My above observation is made only for disposal of present petition and it will have no effect on merits of the case.

4. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

25.07.2024
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(AMARJOT BHATTI)
JUDGE

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