



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-22054-2023
Date of decision: 11.09.2024

Manjit Kaur ...Petitioner

Versus

Jaswant Singh ...Respondents

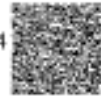
CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. P.S. Ahluwalia, Advocate with
Mr. H.S. Randhawa, Advocate for the petitioner.

Mr. A.S. Gill, Advocate for the respondent.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 482 Cr.P.C. seeking quashing of criminal complaint NACT No.626/2022 titled as Jaswant Singh Vs. Harnek Singh and another, under Section 138 NI Act (Annexure P-1) and summoning order dated 10.11.2022 (Annexure P-2) passed by the Court of Judicial Magistrate Ist Class, Kapurthala.
2. The brief facts of the case are that respondent/complainant filed criminal complaint Annexure P-1 against present petitioner and her husband Harnek Singh, on the basis of dishonor of cheque worth Rs.30 lacs issued by the accused persons drawn on Axis Bank Limited, Kapurthala branch dated 15.09.2022 and the same was dishonored on its presentation on account of (Account blocked), vide memo dated 26.09.2022. After recording of preliminary evidence, both the accused including the present petitioner were summoned by the trial Court vide order Annexure P-2. Being aggrieved, the present petition has been filed by the petitioner who is wife of co-accused Harnek Singh.
3. The counsel for the petitioner submits that there were no



financial transactions between petitioner and respondent and further petitioner was not signatory to the cheque in question. It is further submitted that the liability of the petitioner cannot be fastened on the ground that the cheque in question was issued from the joint account of the petitioner. It is further submitted that there are no specific allegations against the petitioner that she took any loan from respondent or that she issued any cheque in discharge of her legal liability. That in the given circumstances, as prima facie no offence is made out against the petitioner, the criminal complaint Annexure P-1 deserves to be quashed. In support of his contentions, the counsel for the petitioner has placed reliance on the decision of Hon'ble Supreme Court in ***Mrs. Aparna A. Shah Vs. M/s Sheth Developers Private Limited and Another reported in 2013 (3) RCR (Civil) 680*** wherein it was held that even if the cheque is drawn by accused from joint account, it is only the drawer of the cheque who can be made an accused in proceeding under Section 138 NI Act.

4. On the other hand, the counsel for the respondent while supporting the summoning order Annexure P-2, inter alia submits that allegations in the complainant Annexure P-1 are specific even against the present petition. It is further submitted that petitioner and her husband jointly took loan from the respondent and in order to discharge their liability, both of them issued cheque in question from their join bank account and as such they are jointly liable under Section 138 NI Act.

5. I have considered the submissions made by counsel for the parties.

6. A bare reading of impugned complaint (Annexure P-1) and a bare look at cheque in question (Annexure P-3) would show that the petitioner has not signed the said cheque and rather it appears that the same was signed by her husband Harnek Singh. There is no doubt that the cheque in question contains name of the petitioner and her husband and the cheque was drawn from their joint bank account and issued in favour of respondent Jaswant Singh. Further, nothing is elicited from the complaint Annexure P-1 to the effect that it was petitioner who handed over the cheque in question in discharge of her legal liability in favour of the respondent. Thus, making

it apparent that petitioner is not a drawer of cheque in question and she has not signed the same.

7. The Hon’ble Supreme Court in **Mrs. Aparna A. Shah’s case** (supra), held that it is the only the drawer of the cheque who can be made an accused in any proceeding under Section 138 of NI Act, even in case where disputed cheque is drawn from the joint bank account. A joint account holder cannot be prosecuted unless the cheque has been signed by each and every person, who is a joint account holder.

8. In light of the above discussion, the impugned complaint and all the subsequent proceeding arising thereof are not sustainable against the present petitioner.

9. Consequently, the present petition is allowed and criminal complaint (Annexure P-1) and summoning order (Annexure P-2) and all the consequential proceedings emanating therefrom are hereby quashed qua the petitioner herein.

10. However, it is made clear that the observations made herein above by this Court are only for the purpose of disposal of the present petition.

11.09.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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