

2024.PHHC.113432



127.

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

CRM-M-29289-2024

Date of decision: 29.07.2024

Imran Khan

.... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Sarfaraj Anjum Mor, Advocate, for the petitioner.

GURBIR SINGH, J.

1. This petition has been filed under Section 482 of Cr.P.C. for setting aside the order dated 08.08.2022 (Annexure P-1), vide which, the trial Court has allowed the application moved by the complainant-Jagdeep Singh under Section 143-A of Negotiable Instruments Act (for short, NI Act), in a complaint case bearing No.14 of 2020 filed under Section 138 of NI Act, and has awarded 10% as interim compensation amount of the cheque amount, and also seeking for setting the order dated 09.11.2023 (Annexure P-2) whereby revision filed against the order dated 08.08.2022 has been dismissed.

2. Briefly stated, the petitioner-Imran Khan, his brother-Fakruddin and the complainant-Jagdeep Singh, respondent No.2 herein, were partners on construction projects, but due to some reasons, they could

not continue with their partnership and decided to settle the accounts. As per settlement, Rs.11 lacs was to be paid by the petitioner to the complainant. The petitioner, on repeated requests of the complainant, issued a cheque bearing No.000032, dated 30.10.2019, but on its presentation with the Bank, it was dishonoured with the remarks “funds insufficient”. Legal notice was served upon the petitioner, but he failed to make the payment and thereafter, complaint was filed. The complainant also filed an application under Section 143A of NI Act directing the petitioner-accused to deposit 20% of the cheque amount.

2.1 Said application was replied by the petitioner-accused by submitting that he issued a cheque on 07.09.2016 in the name of Parkash Bhatta Company, which was to be handed over to Jagdeep (complainant), as the complainant, petitioner and one Amar Deshwal were running a business of construction work. The said cheque was used by the complainant in the year 2019.

2.2 Vide order dated 08.08.2022, application was allowed and the petitioner-accused was directed to pay an interim compensation amount of 10% of the total amount. Revision was also filed by the petitioner against the said order, but it was dismissed vide order dated 09.11.2023.

2.3 Aggrieved against the said orders, the petitioner-Imran Khan has approached this Court.

3. Learned counsel for the petitioner has argued that in fact, the petitioner has issued cheque of Rs.10,000/- of dated 07.09.2016 in favour of

Parkash Bhatta Company and the same was to be handed over to the complainant for delivering it to the said Company, but the complainant misused the cheque in the year 2019. The complainant added “1” at the start and “0” at the end to make the cheque amount of Rs.11 lacs. Since there is alteration, so said cheque is void cheque. He has further argued that vide impugned orders, 10% interim compensation has been awarded in favour of the complainant, which is wrong and against the law.

4. I have heard the submissions of learned counsel for the petitioner and have gone through the file.

5. As per the version of the complainant-respondent No.2, cheque is dated 30.10.2019. There is no explanation as to how the date 07.09.2016 has been changed to 30.10.2019. The word one lac in words cannot be changed to eleven lacs. All these contentions are to be proved during trial. Copy of the cheque is not produced with this petition. There is a presumption that cheque was issued for consideration and said presumption is rebuttable. It is a pure question of fact whether there is any alteration in the cheque or not. The trial Court has granted only 10% of the cheque amount as interim compensation. Trial Court has rightly held that there is sufficient material against the petitioner-accused that he had actually issued the cheque in question. The provisions of Section 143-A of the NI Act have been added for this sole purpose that due to heavy pendency of complaints under Section 138 of NI Act, there is delay in disposal of cases, so

compensation upto 20% of cheque amount be granted to the complainant which is subject to adjustment at the final stage.

6. Well reasoned orders have been passed by the courts below and this Court finds no ground for interference. The petition is dismissed accordingly.

(GURBIR SINGH)
JUDGE

July 29, 2024
sanjeev

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