

203 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42923-2022
DATE OF DECISION:-04.03.2024

Anjana Kanwar and another ...Petitioners..

vs.

Gagandeep Singh ...Respondent..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Varun Goyal, Advocate,
for the petitioners.

None for the respondent.

HARKESH MANUJA, J. (Oral)

1. By way of present petition filed under Section 482 Cr.P.C., the petitioners pray for quashing of complaint bearing No.NACT-23 of 2020, titled as ***“Gagandeep Singh vs. ACE Immigration and others”***, besides quashing of summoning order dated 14.01.2020 passed by the Court of learned Judicial Magistrate First Class, Sunam, whereby, the petitioners besides two others have been summoned to face trial for the offence punishable under Section 138 of the Negotiable Instrument Act, 1881 (for short, “NI Act”).

2. Against dishonour of cheque bearing No.039376 dated 18.09.2019, amounting to Rs.1.50 lakh, issued under the signatures of Abhay Pratap Kanwar Singh, who happened to be the sole proprietor of ACE Immigration, complaint No.NACT-23 of 2020, titled as ***“Gagandeep Singh vs. ACE Immigration and others”***, came to be filed before the Court

of Sub-Divisional Judicial Magistrate, Sunam, wherein the petitioners and aforesaid Abhay Pratap Kanwar Singh as well as ACE Immigration through its Director were summoned as accused to face trial for the offence punishable under Section 138 of the NI Act, vide order dated 14.01.2020.

3. While assailing the aforesaid order, learned counsel for the petitioners submits that petitioners are not in any way associated with the firm “ACE Immigration” nor they are signatory to the cheque in question. He also points out that even the account from which the cheque in question has been drawn is not maintained by either of the petitioners and thus the filing of complaint as well as summoning order against the petitioners is merely a misuse of process of law, only to harass them.

4. In pursuance to order dated 16.09.2022, despite service no one has chosen to appear on behalf of the respondent.

5. I have heard learned counsel for the petitioners and gone through the paper book. I find substance in the submissions made on behalf of the petitioners.

6. A perusal of cheque bearing No.039376 dated 18.09.2019 (Ex.C-1) shows that the same has been issued under the signatures of Abhay Partap Kanwar Singh. Besides it, no averment whatsoever has been made in the entire complaint so as to show how the petitioners happened to be incharge and responsible to the firm “ACE Immigration” for the conduct of its business or the offence under Section 138 NI Act was committed with their consent, connivance or even any negligence attributable to them.

7. In the absence of aforesaid, petitioners neither being signatory to the cheque in question nor even been associated with the firm “ACE Immigration” in any manner, the filing of complaint against them followed

by passing of summoning order is an abuse of process of law.

8. Resultantly, the present petition is allowed and the complaint bearing No.NACT-23 of 2020, titled as “*Gagandeep Singh vs. ACE Immigration and others*”, as well as summoning order dated 14.01.2020, is hereby quashed qua the petitioners.

04.03.2024
sonika

whether speaking/reasoned: Yes/No

whether reportable: Yes/No

(HARKESH MANUJA)
JUDGE