



CRM-M-43168-2024

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

CRM-M-43168-2024
Decided on : 03.09.2024

M/s Deji Industry Pvt. Ltd. & another Petitioners

Versus

Vision India Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Aman Priye Jain, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

Instant petition has been filed under Section 482 Cr.PC for quashing of complaint i.e. NACT 903 of 2023 registered under Section 138 of Negotiable Instrument Act before JMIC, Panipat as well as summoning order dated 06.05.2023 (Annexure P-3).

2. Learned counsel for the petitioners contends that while passing the summoning order dated 06.05.2023 (Annexure P-3), the trial Court failed to properly consider that the complainant-respondent had purchased goods equivalent in value to the cheque issued by the petitioner, as per the agreement dated 08.06.2022 (Annexure P-2), between the parties. Consequently, there was no legally enforceable debt or liability at the time the cheques issued by the petitioner, were allegedly dishonoured by the bank.



Furthermore, learned counsel for the petitioner asserts that the respondent-complainant, acting with mala fide intent, deliberately concealed these material facts while presenting the cheques. It is additionally argued that mere existence of an agreement between the parties does not imply the existence of any legal liability owed to the complainant. Therefore, it has been submitted and prayed by the learned counsel for the petitioner that since no amount was due to the complainant, neither the criminal complaint in question (Annexure P-1) was maintainable nor the summoning order dated 06.05.2023 (Annexure P-3) warranted.

3. It would be apposite to reproduce the contents of the complaint in question, which are as under:

“The complainant respectfully submits as under:-

1. That Complainant is manufacturer and supplier of Home Furnishing product etc. and is working under the name and style of Vision India. Gagan Rawal is its Proprietor being Proprietor he is well conversant with the day to day business of the firm and is competent to get serve present notice for and on behalf of Vision India. Even being Prop. he is competent to get serve the present notice and for and on behalf of Vision India as well as for himself.

2. That accused no. 1 through accused no. 2 approached complainant with the request to supply his product as well as raw material which was lying with him. Complainant considered his request and



agreed to supply the same. Complainant supplied accused the ordered goods vide various bills/invoices w.e.f 05/02/2022 till 19/07/2022 total worth Rs. 2,91,61,559/-. It was agreed between accused and complainant that accused will clear the payment of each bill maximum three to four months from the date of each bill. As accused failed to make the payment as agreed between accused and complainant, hence a memorandum of understanding was written between accused and complainant and at that time accused confirmed the goods purchased by him vide various bills and also issued Post dated cheques as written in the memorandum itself. Even after execution of this MOU you have been placing order to supply more goods and complainant has also been supplying the same to accused as per his requirement. Even accused have also been making part payment after the memorandum.

3. That accused have also been making part payment to complainant from time to time and each and every payment has been shown in the books/account of my client which he maintain in the regular course of business. In this manner now a total amount of Rs. 97,43,330.80/- is standing due as on 22/11/2022 against accused.

4. That although accused have issued nine cheques all dated 19/01/2023 out of which three cheques i.e. cheque bearing no. 000320 dated 19.01.2023 worth Rs. 3,21,610/-, cheque bearing NO. 000323 dated 19.01.2023 worth Rs. 4,93,,981/- and cheque bearing No. 000324 dated 19.01.2023 worth Rs. 11,50,000 as part payment. These cheques were



*drawn by accused on his banker i.e. HDFC Bank, HDFC Bank Ltd. SCF 50, Sector-11, HUDA, Panipat-132103, Haryana where accused are having his running bank account bearing No. 50200052704152. At the time of issuing of this cheque in favour of complainant, accused assured that these cheques would be encashed definitely on the due date of each cheque or thereafter and in any manner same would not be returned unpaid and you will keep sufficient amount in your account to get honor these cheques. Complainant deposited these cheques with its banker i.e. State Bank of India, SCB, GT Road, Panipat but the same was returned unpaid alongwith memo dated 20.01.2023 to complainant with the remarks that **"Payment stopped by drawer."** to complainant.*

5. That after receiving back unpaid the cheques, complainant through his authorized person awared accused regarding fate of the above said cheque and demanded the cheque amount. But accused instead to make the payment of these cheques remarked that he intentionally has stopped the payment with the intention to cheat complainant and refused to make the payment.

6. That finding no other alternative the complainant got served legal notice dated 16/02/2023 which was dispatched on 17/02/2023 through regd A.D. vide receipt No. RH607636420IN dated 17/02/2023, receipt No. RH607636433IN dated 17/02/2023 and receipt No. RH607636447IN dated 17/02/2023. The notice was also served through courier vide receipts no. T17453644 dated 17/02/2023 and No. 1450823512 dated 17/02/2023. The accused received



the notice. Despite thereof the accused has failed to make the payment of the cheque in question. Copy of statement, Invoice, cheque, memo, legal notice, has got jurisdiction to try and decide the present complaint.

7. *That the complaint is being filed within time.*

8. *That requisite court fee has been affixed on the complaint.*

It is, therefore prayed in the interest of justice the accused may kindly be summoned, tried and be punished accordingly. It is further prayed that the accused may kindly be directed to make the payment of the aforesaid cheque to the complainant alongwith compensation accordingly to the amended provision of the Negotiable Instrument Act.”

4. I have heard learned counsel for the parties and perused the material placed on record.

5. Learned counsel for the petitioner has raised disputed questions of fact, which cannot be delved into by this Court while exercising its power under Section 482 Cr.PC/528 BNSS. Needless to add, when the parties lead their respective evidence before the trial court, the same would be appreciated and tested on the touchstone of cross-examination.

6. In the facts and circumstances, no ground is made to accept the prayer made by the learned counsel for the petitioner. Accordingly, the instant petition stands dismissed.



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7. 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.

03.09.2024
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(MANJARI NEHRU KAUL)
JUDGE

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