



CRM-M-43623-2024

-1-

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

CRM-M-43623-2024

Date of Decision: 04.09.2024

Parvinder Singh and another

..... Petitioners

Versus

Tilak Jewellers

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sahej Mahajan Advocate and
Mr. Manik Sharma, Advocate, for the petitioner

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition is for quashing the complaint No.NACT 1406 of 2021 dated 28.09.2021 qua the present petitioners titled as Tilak Jewellers vs. M/s Tread Kreations and others, registered at the instance of respondent-complainant under Section 138 of Negotiable Instruments Act, 1881 as well as summoning order dated 22.12.2021 passed by learned JMIC, Panipat and all other consequential proceedings arising therefrom.

2. Precise submission made by counsel for the petitioners is that the petitioners are the partners of the firm M/s Thread Kreations, which is involved in the business of manufacturing all kinds of handlooms and textile items. He submits that third partner, namely, Nand Kishore issued cheques of partnership firm bearing No.000020, 000021 and 000022 for an amount of Rs.4,75,000/-, Rs.6,25,000/- and Rs.5,50,000/-, respectively drawn on Punjab & Sind Bank, GT Road, Panipat under his own signature. He submits that on the presentation of these cheques, the same were dishonoured with the remarks "Funds Insufficient". He further submits that these cheques were



CRM-M-43623-2024

-2-

issued by Nand Kishore for his personal gain and not in relation to the business transaction of the firm. He further argued that the petitioners were no longer the partners of the firm as well at the time of issuance of the cheques by Nand Kishore. He thus contends that the impugned complaint is not even maintainable against the petitioners and thus, the impugned summoning order is also unsustainable in the eyes of law. He relies upon the judgments of Hon'ble Supreme Court in Siby Thomas vs. M/s Somany Ceramics Ltd. 2024 (1) SCC 348 and Dilip Hariramani vs. Bank of Baroda, passed in Criminal Appeal No.767 of 2022 on 09.05.2022.

3. Heard.

4. After hearing learned counsel for the petitioners and perusing the record, it is apparent that the precise submission made by counsel for the petitioner is regarding the maintainability of the complaint for the reason that third partner Nand Kishore had issued the impugned cheques under his signature for his personal gain, which had no relevancy with the business of the firm. It is further their case that the petitioners were not even partners of the firm at the time of issuance of cheques. Thus, it is evident that the contentions raised by counsel for the petitioners regarding maintainability of the impugned complaint on the grounds as contended are based on disputed question of facts, which cannot be gone into by this Court under its inherent power. However, the right of the petitioners to agitate the same cannot be curtailed. Thus, this Court declines to interfere in the same at this stage and hence, dispose of the present petition with liberty to the petitioners to raise their grievances before the trial Court.

5. Learned trial Court after hearing both the sides would decide

the issue of maintainability at the first instance in the light of the contentions raised and the law relied upon by the parties. However, the petitioners would be at liberty to avail their remedy if any further cause of action accrues to them, in accordance with law.

6. Petition stands disposed of.

04.09.2024		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No