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

**CRM-M-53210-2023 (O&M)
Date of Decision:- 28.08.2024**

SH. RAMESH KUMAR**.....Petitioner****VERSUS****M/S ABHAY HIGHWAY****.....Respondent****CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Ms. Harmanpreet Kaur, Advocate
for the Petitioner.

(THROUGH VIDEO CONFERENCING)

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the Complaint No.2628 of 2019 dated 17.09.2019 titled as M/s Abhay Highway Vs. M/s Anant Transport Service registered under Section 138 of NI Act read with Section 420 IPC (Annexure P-7), the summoning order dated 28.02.2022 (Annexure P-8) and all consequential proceedings arising therefrom.

2. The brief facts of the case are that in discharge of his liability the petitioner on behalf of his firm M/s Anand Transport Service issued a cheque No.224936 dated 08.08.2019 for an amount Rs.3,50,000/-. The said cheque came to be dishonoured with the remarks 'Payment Stopped' on 11.06.2019. A legal notice dated 19.08.2019 was sent by the complainant/respondent. However, no payment made in furtherance of the said legal notice. Ultimately, the Complaint No.2628 of 2019 dated 18.09.2019 U/s 138 of NI Act read with Section 420 IPC came to be instituted against the petitioner and the firm M/s

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Anand Transport Service. The copy of the said Complaint No.2628 of 2019 dated 17.09.2019 is attached as Annexure P-7.

3. Based on the complaint and the preliminary evidence, the petitioner and his firm were ordered to be summoned under Section 138 NI with Section 420 IPC vide order dated 28.02.2022. The said summoning order is attached as Annexure P-8 to the petition.

4. The aforementioned complaint (Annexure P-7) and summoning order (Annexure P-8) are under challenge in the present petition.

5. The learned counsel for the petitioner contends that the petitioner had been making regular payment to the complainant/firm and therefore, there was no amount due from the side of the petitioner firm towards the complainant party. A suit for rendition of account is also pending. In fact, blank cheques had been taken under police pressure by the complainant party from the accused and on the dishonouring of the said cheques, the complaint had been filed. Therefore, the complaint and the summoning order were liable to be quashed.

6. I have heard the learned counsel for the petitioner.

7. When the instant petition had come up for hearing, notice of motion had been issued but none has appeared on behalf of the complainant. As repeated adjournments were being sought by the petitioner/accused, a report was called for from the Trial Court as to the stage of proceedings pending before it in the complaint case in question. As per the report of the District and Sessions Judge, Ambala dated 20.08.2024 till date none had appeared on behalf of the accused despite several opportunities and publication in newspaper. Therefore, the petitioner was declared proclaimed person vide order dated 09.07.2024.

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8. A perusal of the complaint and summoning order would show that *prima facie*, the offence is made out. The various grounds raised by the petitioner would be a matter of Trial and cannot be adjudicated upon in a petition under Section 482 Cr.P.C. Further, as the petitioner is absconding and has till date, not put in appearance before the Trial Court, a petition for quashing of the complaint and summoning order at the instance of absconding accused is certainly not maintainable. Reference is made to the judgment of the Hon’ble Supreme Court in the case of Srikant Upadhyay & others Versus State of Bihar & another, SLP (Crl.) No.7940 of 2023 wherein, it has been stated that an absconding accused cannot be granted the concession of anticipatory bail. A similar view has been expressed by the Hon’ble Supreme Court in the case of Virender Prasad Singh Versus Rajesh Bhardwaj, (2010) 9 SCC 171 and various High Courts in the cases of Sarabjit Singh Versus State of Punjab, 2021(4) R.C.R. (Criminal) 87, Sunil Raj Versus Gopan & another, 2020(4) KLT 313 and Lalitikishore Omprakash Arya Versus State of Gujarat & another, 2005(10) R.C.R. (Criminal) 799.

9. In view of the aforementioned discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

10. All the pending miscellaneous applications, if any, shall stand disposed of.

(JASJIT SINGH BEDI)

JUDGE

28 .08.2024

JITESH

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