



CRM-M-51327-2024

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

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CRM-M-51327-2024

Date of decision: 18th October, 2024

M/s K.C. Associates and another

...Petitioners

Versus

M/s Venus Traders and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. A.S. Nirmaan, Advocate for the petitioners.

MANISHA BATRA, J (ORAL):-

The instant petition has been filed by under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking quashing of complaint bearing No. NACT 277 of 2018 titled as 'M/s Venus Traders and another Vs. M/s K.C. Associates and others' filed under Section 138 of Negotiable Instruments Act, 1881 (For short 'NI Act') pending before the Court of learned Chief Judicial Magistrate, Panchkula and the consequential proceedings arising therefrom.

2. Adumbrated facts as emanating from the record are that the aforementioned complaint has been filed by respondent No.1 through its partner Sumit Chauhan as against the petitioners, on the allegations that they were having business transactions since the year 2016. A cheque bearing No.

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563651 dated 29.12.2017 was issued by the petitioner-firm for a sum of Rs. 2,00,000/- in favour of the respondent No.1-firm. The same was presented by respondent No.1 with its banker and the same was dishonoured with the remarks 'funds insufficient' memo dated 19.01.2018. As the petitioner did not make payment of the cheque amount even after issuance of statutory notice, therefore, the respondent No.1-complainant filed a complaint seeking penal action against the petitioners. The proceedings before the learned trial Magistrate are pending.

3. It is submitted by learned counsel for the petitioners that the cheque in question had been issued by the petitioner-firm by way of security without mentioning any date on the same. Infact, the entire amount of money payable to the respondent-firm had been paid by the petitioner at the time of closing dealings with the same. The respondent-firm has misused this cheque. Even legal notice was issued against the petitioners on wrong addresses. The petitioners are ready to pay the amount of cheque in question and are ready to compound the offences and had even moved the application in this regard before the learned trial Magistrate but the same was dismissed vide order dated 21.08.2024. It is submitted that in the peculiar circumstances of the case, the complaint as filed by the respondents against the petitioner is liable to be quashed.

4. I have heard learned counsel for the petitioner at considerable length and have gone through the record.

5. It is revealed from the record that the aforementioned complaint



had been filed by respondent No.1-firm through its proprietor i.e. respondent No.2 as against the petitioners in the year 2018. The petitioner No.2 was declared a proclaimed person. No doubt, he is shown to have moved an application before the learned trial Magistrate making prayer for compounding of the offences under Section 138 of NI Act by showing inclination and willingness to pay the cheque amount and since the respondent-complainant Firm refused to compound the offence, the prayer made by the petitioners had been declined and application moved in this regard stands dismissed vide order dated 21.08.2024. The question that arises before this Court is that whether any reasonable ground has been made out for quashing of the complaint as pending against the present petitioners and whether the petition for seeking such relief is maintainable?

6. The well settled proposition of law is to the effect that the jurisdiction to quash a complaint or FIR should be exercised sparingly and only in exceptional cases, where the allegations made in the complaint/FIR or material placed on record, even if taken at its face value and accepted in its entirety do not *prima facie* constitute any offence or make out case as against the accused. Though the powers under Section 482 of Cr.P.C. vested with this Court are wide but the very plenitude of the power requires great caution in its exercise and this inherent power cannot be exercised to stifle a legitimate prosecution. Such powers are to be exercised only to give effect to any order under the Code of Criminal Procedure to prevent abuse of process of the Court and to secure the ends of justice.



7. On applying the above discussed proposition of law to the peculiar facts of the present case, it has been noticed that respondent No.1-firm has filed the aforementioned complaint against the petitioners on the allegations that a cheque issued by the petitioners for a sum of Rs. 3,00,000/- to discharge their legally enforceable liability had been dishonoured and the petitioner No.1 failed to pay the amount of the same despite issuance of statutory notice. The first ground that has been taken by the petitioners seeking quashing of this complaint is that the petitioner No.1 was ready to compound the offence but his prayer made to this effect has been declined and secondly that demand notice was issued on wrong address. So far as the first ground is concerned, on a perusal of Annexure P-6 i.e. copy of order dated 21.08.2024, it is clear that while passing this order, the learned trial Magistrate considered the pleas taken by the petitioners in detail and observed that since the consent of the respondent-complainant for compounding of the offence was not there and compounding could not be allowed on unilateral application of the accused, hence, the application moved by the petitioners could not be allowed. This Court finds no illegality or irregularity in the order, so passed by the learned Magistrate. Moreso, this order has not even been challenged by the petitioners.

8. So far as the plea about issuance of demand notice on wrong address is concerned, the same cannot be gone into at this stage and has to be decided on the basis of evidence led during trial. After considering the contentions raised by learned counsel for the petitioners and in view of the



discussion as made above, this Court does not find it to be a case which could be gone into a petition under Section 482 of Cr.P.C., especially when the case is at its final stage i.e. stage of producing defence evidence. Accordingly, finding no merit, the petition is dismissed.

[MANISHA BATRA]
JUDGE

18th October, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |