

2024:PHHC:009693

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

254

CRM-M-61694-2018
Date of Decision : January 24, 2024

VENKATESWARA RAO DARSI

.....Petitioner

VERSUS

M/S INDRA VALUES

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Gorav Kathuria, Advocate
for the petitioner.

Mr. Paras Jhamb, Advocate for
Mr. D.S.Sobti, Advocate
for the respondent.

KULDEEP TIWARI, J. (Oral)

1. Through the instant petition, prayer is made for quashing of Criminal complaint No.COMA/7300/2018 dated 24.5.2018, under Section 138 of the Negotiable Instruments Act, 1885, titled as “M/s Indra Value Vs. Venkat” (Annexurfe P-2) as well as the impugned summoning order dated 31.5.2018 (Annexure P-3).

2. Learned counsel for the petitioner has based his arguments on the ground that the impugned cheque, which is the fulcrum of the present complaint, is the result of fraud, as the signatures on the cheque in question are not appended by the petitioner. He further submits that the account from which the cheque in question has been issued, does not belong to the present petitioner. In this regard, he has placed reliance upon Annexure P-6, which is the information given to him under RTI, by Federal Bank, Branch Vijayawada. He further submits that the complaint

does not disclose what was the liability and what was the business transaction *qua* which the petitioner has issued the disputed cheque, therefore, the allegations are vague. He further submits that after 5 years of the business transaction, the complainant wake up and by forging the present cheque, has filed by the present complaint, therefore, the same is liable to be quashed. He further submits that the petitioner has been summoned through incomplete name, as the name of the petitioner is Venkateswara Rao Darsi, whereas, in the complaint his name is mentioned as Venkat.

3. This Court has examined the submissions made by both the learned counsel for the petitioner as well as the respondent and has examined the summoning order.

4. The star argument, as raised by the learned counsel for the petitioner is with regard to the forging of the cheque, which this Court cannot establish under Section 482 Cr.P.C., as this requires adduction of evidence before the learned trial Court concerned, at the appropriate stage, therefore, the first argument, as submitted by the learned counsel for the petitioner is rejected.

5. The second issue, which is raised by the learned counsel for the petitioner, is that the account from which the disputed cheque has been issued, does not belong to the present petitioner. To lend vigor to his argument, he has placed reliance upon one RTI information, the photocopy of which has been appended with the instant petition as Annexure P-6. This information is also required to be proved at an

appropriate stage of the trial by giving the other party an appropriate opportunity to cross-examine the person, who will bring the document on record.

6. Finally, the last argument as presented by the learned counsel for the petitioner is that the petitioner has been summoned on incorrect name, as his name is Venkateswara Rao Darsi, whereas, he has been arraigned as an accused in the name of Venkat and malafidely, the present complaint has been filed. The petitioner has been arraigned as Venkat, Prop. M/s Srinivasa Marketing in the instant complaint. It is not disputed by the learned counsel for the petitioner, that he is not a proprietor of M/s Srinivasa Marketing. The mentioning of incorrect name did not cause any prejudice to the present petitioner, as he has already caused an appearance before the learned trial Court concerned. All these issues, which have been raised before this Court are disputed questions of facts, therefore, the same cannot be adjudicated by exchange of affidavits before this Court. Therefore, the instant petition have no merit, therefore, the asked for relief is, hereby, declined, however, with liberty to the petitioner to raise all such pleas, before the learned trial Court concerned, which are raised before this Court.

7. Learned counsel for the petitioner, however, submits that he may be granted the relief of permanent exemption, as he has to come and cause an appearance before the learned trial Court concerned from Vijayawada and he is a businessman and because of this complaint, his business is affected a lot and he has a family to raise, therefore, he

undertakes to cause appearance as and when called by the learned trial Court concerned.

8. Learned counsel for the respondent submits that he has no objection in case the petitioner is extended the relief of exemption. Further the learned counsel for the petitioner submits that he has also no objection in case the statements of the complainant and other witnesses are recorded in the presence of his counsel.

8. In view of the submissions made by the learned counsel for the petitioner, the petitioner is allowed to join the proceedings through his counsel. In case, the presence of the petitioner is required by the learned trial Court concerned, the petitioner shall ensure his presence, as and when called by the learned trial Court concerned.

9. Disposed of accordingly.

(KULDEEP TIWARI)
JUDGE

January 24, 2024
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No