



**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-63232-2024 (O&M)
Date of Decision:- 16.12.2024

Suresh Binjraj Agarwal ... Petitioner

Versus

Impex Steel & Alloys and another ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Anurag Jain, Advocate for the petitioner.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks quashing of complaint bearing CIS No. N.Act 286/2020, dated 21.01.2020 (Annexure P-4) as well as summoning order dated 08.02.2022 passed by learned Judicial magistrate 1st Class, Hisar (Annexure P-5), so as to face trial for offence under Section 138 of Negotiable Instruments Act.
2. Learned counsel for the petitioner submitted that the trial Court proceeded in the matter in a hurried manner and did not even chose to conduct the inquiry mandated under provisions of Section 202 Cr.P.C. (now Section 225 of BNSS).



CRM-M-63232-2024 (O&M) (2)

3. Learned counsel in order to *hammer forth* his aforesaid submission places reliance upon *Vishwakalyan Multistate Credit Co Op Society Ltd. Vs. Oneup Entertainment Private Limited 2023(4) AICLR 846* and also a judgment of co-ordinate Bench of this Court in *M/s Jai Hanuman Rice and General Mills and another Vs. Sumita Jain, CRM-M-48214-2023, decided on 15.01.2024.*
4. Learned counsel submitted that since the petitioner admittedly resides at Ahmedabad, Gujrat i.e. in a different State, the Court was under an obligation to have conducted an inquiry before proceeding to summon the petitioner.
5. This Court has considered the aforesaid submissions and has also perused the impugned order and the cited judgments.
6. A perusal of judgment of Hon'ble Apex Court in *Vishwakalyan's case* (Supra) shows that it has been held therein that as per provisions of Section 202 of Cr.P.C., a Magistrate is required to hold an inquiry before proceeding to order for summoning of an accused and in the absence of the same the entire proceedings are liable to be set aside. There is certainly no dispute as regards the broad proposition of law spelt forth therein.
7. Learned counsel has however, not disputed the fact that in the instant case at the stage of preliminary evidence the complainant had tendered his affidavit. It was on the basis of the said deposition that the impugned order came to be passed wherein the requisite facts have been duly noticed by the Court concerned. It is well settled that it is not the quantity, but the quality of the evidence which is required to be assessed. In any case for the purpose of



CRM-M-63232-2024 (O&M) (3)

summoning, the procedure adopted by the Magistrate cannot be found fault with. The mere fact that the complainant did not examine any other witness other than himself cannot be made a ground to observe or hold that the mandatory inquiry had not been conducted. Rather Hon’ble the Apex Court in Suo Motu Writ Petition (Criminal) No.2 of 2020 in the case of “In Re: Expeditious Trial of Cases under Section 138 of N.I.Act, 1881, 2021 SCC Online SC 325” observed as under:

- “3) For the conduct of inquiry under Section 202 of the Code, evidence of witnesses on behalf of the complainant shall be permitted to be taken on affidavit. In suitable cases, the Magistrate can restrict the inquiry to examination of documents without insisting for examination of witnesses.”
8. In the present case a preliminary inquiry having been conducted and a reasonably detailed order have been passed by the trial Court, this Court does not find any ground for setting aside the same.
9. The petition is sans merit and the same is dismissed.

16.12.2024
mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No