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

CRM-M-1965-2025 (O&M)

Date of decision : 16.01.2025

Tejbir Singh Malik

...Petitioner(s)

Versus

M/s Hanuman Trading Company and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Yashveer Kharb, Advocate for the petitioner.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 447 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, '*the B.N.S.S.*') for transfer of criminal complaint NACT/1315/2021, titled as 'Tejbir Singh Malik Vs/ M/s Hanuman Trading Company and another' (P-1) under Section 138 of the Negotiable Instruments Act, 1881 (*for short, 'NI Act'*), from the Court of learned Judicial Magistrate First Class, Panipat (*for short, 'JMIC'*), to the Court of competent jurisdiction at Sub-Division Safidon, District Jind.

2. Contends that learned JMIC, Panipat has no jurisdiction to entertain the complaint under Section 138 of the NI Act as the cheque in question was presented at Punjab National Bank, Safidon, District Jind. In support of the above contention, learned counsel for the petitioner has relied upon ***Bijoy Shankar Mishra Vs. The State of***

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Jharkhand and another, SLP (Crl.) No.894/2022, decided on 12.09.2023.

3. Heard learned counsel for the petitioner and perused the paper-book.

4. Concededly, the trial is at the fag end and the point of jurisdiction can be raised before learned JMIC, Panipat, where the complaint is pending.

5. Also noteworthy that complainant himself made certain averments in Para 7 of the complaint (P-1) to the effect that Court at Panipat is having jurisdiction to try and adjudicate the complaint. For reference, above para is extracted as under:-

“7. The said cheque has been issued by the accused to the complainant at village Seenk, Tehsil Israna Distt. Panipat and the entire transaction took place within the jurisdiction of Distt. Panipat, so Hon’ble court has got jurisdiction to try and adjudicate the present complaint.”

6. As on today, petitioner has been cross-examined by the respondent-accused; but learned counsel for the petitioner is not aware, as to what are the contents of examination as well as cross-examination. Concededly, trial is pending for defence evidence/final arguments; thus, in such a scenario, the point of jurisdiction, if raised, can be considered by learned JMIC, Panipat, as per law, including Section 460(e) of the Code of Criminal Procedure, 1973 [Section 506(e) of the B.N.S.S].

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7. Even the case law *Bijoy Shankar Mishra's case (supra)* cited by learned counsel for the petitioner is also not helpful for the following reasons: -

- (i) In the cited case, no opportunity was given to complainant/appellant therein to take any remedial steps; learned JMIC concluded the trial in haste; and proceeded to discharge the accused despite the fact that it was a summons case, but in the present case, there is no such conclusion recorded by learned JMIC, till date.
- (ii) Apart that, in the cited case, Hon'ble the Supreme Court had passed orders while exercising extra-ordinary powers under Article 142 of the Constitution and particularly observed that "*we clarify that this order has been passed in view of the peculiar facts and circumstances of the case and will not be treated as a precedent.*".

8. Apart that, there are mixed questions of facts and law involved in the present case; therefore, this Court is not inclined to accept the prayer of petitioner.

9. In view of the above, there is no option, except to dismiss the petition.

10. Ordered accordingly.

11. However, it is clarified that above observations be not construed as an expression of opinion on merits of the complaint pending before learned JMIC, in any manner.

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Pending application(s), if any, shall stand disposed off.

16.01.2025
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/ reasoned : *Yes / No*

Whether reportable : *Yes / No*