



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

225 (3 cases)

1. **CRM-M No. 33584-2021 (O&M)**
Date of Decision: 05.04.2025

M/s Dynamic (CG) Equipments Pvt. Ltd.Petitioners
through its Director Ashwani Kumar Mahandru & others

Versus

JCB India LimitedRespondent

2. **CRM-M No. 34053-2021 (O&M)**
Date of Decision: 05.04.2025

M/s Dynamic (CG) Equipments Pvt. Ltd.Petitioners
through its Director Ashwani Kumar Mahandru & others

Versus

JCB India LimitedRespondent

3. **CRM-M No. 34224-2021 (O&M)**
Date of Decision: 05.04.2025

M/s Dynamic (CG) Equipments Pvt. Ltd.Petitioners
through its Director Ashwani Kumar Mahandru & others

Versus

JCB India LimitedRespondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Vaibhav Tanwar, Advocate (through V.C.)
for the petitioners.

Mr. Gourav Chopra, Senior Advocate with
Dr. Anand Bishnoi, Advocate and
Mr. Vardaan Seth, Advocate
for the respondent.



MAHABIR SINGH SINDHU, J.

***“PURITY OF JUDICIAL PROCEEDINGS IS NON-NEGOTIABLE;
WHOSOEVER ATTEMPTS TO POLLUTE THE SAME
SHALL BEAR THE CONSEQUENCES”***

Controversy involved in the aforesaid three cases is similar in nature; hence all the cases are being disposed off by this common order.

2. For brevity, facts have been noticed from CRM-M-33584-2021.
3. Present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for quashing of complaint bearing NACT No.2548 of 2017 dated 26.05.2017 (P-3) filed under Section 138 of the Negotiable Instruments Act, 1881 (for short 'NI Act'); summoning order dated 26.05.2017 (P-1) and the entire proceedings thereof, pending before learned Judicial Magistrate First Class, Faridabad (for short 'JMIC').
4. Learned counsel for the petitioners contends that in the present case, impugned summoning order dated 26.05.2017 passed by learned trial Court in complaint under Section 138 of NI Act is against the law. Further contends that impugned summoning order was passed on the same very day, when the present complaint was filed and that too, without any preliminary enquiry and/or examination of any witness(es). Still further contends that procedure contained under Section 202 Cr.P.C, which is mandatory in nature, has not been complied with by learned JMIC before passing the impugned summoning order. Also contends that the matter in controversy as in the present case, is already pending before Hon'ble Chhatisgarh High Court at Bilaspur (P-8 & P-9) and as such, impugned summoning order is bad in the eyes of law. Lastly contended that petitioners were not responsible



for act or conduct of business of the respondent-company and as such, issuance of process against petitioners is not sustainable in the eyes of law.

5. *Per contra*, learned Senior counsel vehemently opposed the prayer while submitting that petitioners have concealed the true and material facts from this Court in as much as they have not disclosed the filing of revision petition against the impugned order of notice of accusation dated 09.03.2018 before learned Additional Sessions Judge, Faridabad (for short 'Revisional Court') which was ultimately dismissed way-back on 25.09.2019 (P-1), as such, present petition is liable to be dismissed on that count only. Further submits that there has been no violation of Section 202 Cr.P.C., as alleged by petitioners. Again submits that impugned summoning order dated 26.05.2017 is legally sustainable and the present petition has been filed belatedly after a period of more than 4 years with an oblique motive to harm and harass the respondent. Lastly submitted that petitioners acknowledged their liability vide letters dated 27.05.2016 (R-3) & 07.07.2016 (R-4) and issued eight post dated cheques for a total sum of Rs. 3,93,10,271/- as partial repayment of the whole outstanding dues.

6. Heard learned counsel for the parties and perused the paper-book.

7. It transpires that respondent filed complaint bearing No. NACT No.2548 of 2017 against petitioners under Section 138 NI Act on 26.05.2017. After considering the material on record and the preliminary evidence in the form of affidavit of complainant (CW1/A) and documents C-1 to C-10 led by complainant/respondent, impugned order was passed by learned Magistrate on 26.05.2017, whereby petitioners were ordered to be summoned to face trial for commission of offence punishable under Section



138 NI Act. Thereafter, notice of accusation was served on petitioner(s) on 09.03.2018. Further transpires that petitioners challenged the said order dated 09.03.2018 before learned Revisional Court by way of filing Revision petition bearing No.260-2018. Aforesaid, revision petition was ultimately dismissed by learned Revisional Court vide order dated 25.09.2019 while observing as under:-

"The revisionist has filed the present revision petition against the order dated 9.3.2018 passed by the court of Sh. Vivek Singh, Id. Judicial Magistrate Ist Class, Faridabad passed in criminal complaint bearing no. 1023/2017 under section 138 of Negotiable Instrument Act vide which the revisionist has been ordered to be summoned for the offence under section 138 of Negotiable Instrument Act.

2. In the revision petition it is alleged that order dated 9.3.2018 is based on conjectures and surmises and the allegations alleged by the complainant are absolutely wrong, false and concocted one. The revisionist had never issued any cheque in favour of the complainant and cheque in question has not been signed by the revisionist. It is therefore, prayed that revision petition filed by the revisionist may kindly be allowed and the impugned order dated 9.3.2018 passed by Id. Trial court may kindly be set aside.

3. I have heard the rival contention of Id. Counsel for both the parties and have gone through the case file very carefully.

4. In the present case revisionist has challenged the order dated 9.3.2018 vide which the revisionist was summoned to face trial under section 138 of Negotiable Instrument Act.



Alongwith the revision petition, a copy of order dated 9.3.2018 has also been produced by the revisionist.

5. I have perused the order dated 9.3.2018 and from the perusal of the same it reveals that notice of accusation was served upon the revisionist as well as other co accused Ashwani Kumar Mahindru by the Id. Trial court under section 138 of Negotiable Instrument Act. I have also perused the lower court record and from the perusal of the same it reveals that revisionist and other co accused were summoned to face trial vide order dated 25.05.2017 and not vide order dated 9.03.2018.

6. In the present revision petition summoning order dated 25.5.2017 is not challenged by the revisionist rather order dated 9.3.2018 is challenged. But from the perusal of the contents of the revision petition it reveals that revisionist has challenged the summoning order and not notice of accusation. The pleadings of the revision petition is itself contradictory and therefore, no relief can be granted to the revisionist in the present revision petition. With these observations and without commenting on the merits of the case, the present revision petition filed by the revisionist is hereby dismissed. The file of the trial court be sent back with one copy of this judgment for compliance. Both the parties are directed to appear before the Id. Trial court on 4.10.2019, (the date already fixed before Id. trial Court). File of the revision-petitions be consigned to the record room.”

A bare perusal of above extract reveals that revision petition filed by petitioners was dismissed by learned Revisional Court on 25.09.2019, but the same has not been disclosed for the reasons best known



to them; thus, there is an active concealment on their part.

8. A *fortiori*, “now it is well settled law that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final. Suppression of material facts from the Court of law, is actually playing fraud with the Court. The Latin maxim *supressio veri, expressio falsi* i.e. suppression of the truth is equivalent to the expression of falsehood, gets attracted”, vide para 7, “Kusha Duruka Versus The State of Odisha” (Criminal Appeal No.303 of 2024, decided on 19.01.2024 by Hon’ble the Supreme Court).

9. Moreover, Hon’ble the Supreme Court in “Dalip Singh Versus State of Uttar Pradesh and others” (2010) 2 Supreme Court Cases 114 frowned heavily upon unscrupulous litigants and observed as under:-

“1. For many centuries Indian society cherished two basic values of life i.e. “satya” (truth) and “ahimsa” (non-violence). Mahavir, Gautam Budhha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of the justice-delivery system which was in vogue in the pre-independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post-independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings.

2. In the last 40 years, a new creed of litigants has cropped up. Those who belong to this



creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final.”

10. Apart that, Hon'ble the Supreme Court in “Kishore Samrite Versus State of Uttar Pradesh and others” (2013) 2 Supreme Court Cases 398 has held as under:-

“35. With the passage of time, it has been realised that people used to feel proud to tell the truth in the courts, irrespective of the consequences but that practice no longer proves true, in all cases. The court does not sit simply as an umpire in a contest between two parties and declare at the end of the combat as to who has won and who has lost but it has a legal duty of its own, independent of parties, to take active role in the proceedings and reach at the truth, which is the foundation of administration of justice. Therefore, the truth should become the ideal to inspire the courts to pursue. This can be achieved by statutorily mandating the courts to become active seekers of truth. To enable the courts to ward off unjustified interference in their working, those who indulge in immoral acts like perjury, prevarication and motivated falsehood, must be appropriately dealt with. The parties must state forthwith sufficient factual details to the extent that it reduces the ability to put forward false and exaggerated claims and a litigant must approach the court with clean hands. It is the bounden duty of the court to ensure that dishonesty and any attempt to



surpass the legal process must be effectively curbed and the court must ensure that there is no wrongful, unauthorised or unjust gain to anyone as a result of abuse of process of court. One way to curb this tendency is to impose realistic or punitive costs.

36. xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

37. xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

38. *No litigant can play “hide and seek” with the courts or adopt “pick and choose”. True facts ought to be disclosed as the court known law, but not facts. One, who does not come with candid facts and clean breast cannot hold a writ of the court with soiled hands. Suppression or concealment of material facts is impermissible to a litigant or even as a technique of advocacy. In such case, the court is duty-bound to discharge rule nisi and such applicant is required to be dealt with for contempt of court for abusing the process of court.”*

11. In view of the above, this Court is of the considered opinion that petitioners were bound to disclose the factum of dismissal of their revision petition on 25.09.20219 by learned Revisional Court; but they knowingly and intentionally failed to do so. Thus, considering the ratio of law laid down in “Kusha Duruka’s case (supra), Dalip Singh’s case (supra)” and “Kishore Samrite’s case (supra)”, there remains no doubt that petitioners have not approached with clean hands while invoking the inherent jurisdiction of this Court under Section 482 Cr.P.C.; rather suppressed the material facts with bad faith.

12. Consequently, this Court is left with no other option, except to dismiss the petitions with costs.

13. Resultantly, all these petitions are dismissed with costs of



Rs.1,00,000/- (Rupees One Lakh).

14. Costs be deposited with Punjab and Haryana High Court Employees Welfare Association, Account No. 37167209613, IFSC Code:SBIN0050306, State Bank of India, High Court Branch, Chandigarh within a period of four weeks from today.

15. Needless to say that interim order dated 31.08.2021 and extended from time to time shall come to an end automatically.

16. Above observations be not construed as an opinion on the merits of the case, in any manner.

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

Photocopy of this order be placed on the files of the connected cases.

05.04.2025

Harish Kumar

(MAHABIR SINGH SINDHU)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No