



CRM-M-60622-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH
122 CRM-M-60622-2024
Date of decision: 8th January, 2025

Parveen Kumar Dadu

...Petitioner

Versus

Roop Kishore Gupta

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Manish Jain, Advocate for the petitioner.

MANISHA BATRA, J (ORAL):-

Challenge in this petition is to the order dated 27.08.2021 passed by the Court of learned Sub Divisional Judicial Magistrate, Amloh, District Fatehgarh Sahib in criminal complaint bearing No. NACT 89 of 2021 titled as '*Roop Kishore Gupta Vs. M/s Bax International and others*', whereby the petitioner had been ordered to be summoned as an accused for commission of offence punishable under Section 138 of Negotiable Instruments Act, 1881 (For short 'NI Act') as well as for quashing of the aforementioned complaint.

2. It is contended by learned counsel for the petitioner that the impugned summoning order is liable to be set aside, as while passing the same, the learned trial Court did not summon M/s Bax International Company which was impleaded as respondent-accused No.1 in the complaint and summoned the petitioner as well as Sh. Darpan Dadu who were partners of M/s Bax International Company. Since the respondent No.1 who had issued the cheque in dispute in favour of the respondent-complainant had not been summoned, the partners thereof also could not be



prosecuted and punished as it is the firm which is liable to discharge the alleged legally enforceable liabilities towards the respondent-complainant.

3. A perusal of record reveals that the complainant had impleaded M/s Bax International firm and the partners thereof for commission of aforementioned offence. While passing the order dated 27.08.2021, the learned Magistrate summoned the partners of the accused No.1-firm i.e. the present petitioner and accused No.3 Darpan Kumar Dadu without issuing any process as against the firm. Since no cognizance was taken against the firm but was taken against the petitioner and above named Darpan Kumar Dadu, an irregularity has been committed by the learned trial Court which can be corrected at this stage, by setting aside the impugned order. So far as the challenge to the criminal complaint is concerned, on perusal of the record, I am of the considered opinion that no ground for seeking quashing of the same has been made out at this stage. Accordingly, the petition is partly allowed. The impugned order is hereby quashed. There is no necessity to the petitioner to appear before the learned trial Court. However, the learned trial Court is to apply its mind afresh on the question of taking cognizance in the matter in accordance with law after hearing arguments of the complainant/his counsel afresh.

4. A copy of this order be sent to the concerned Court for information and requisite compliance.

[MANISHA BATRA]
JUDGE

8th January, 2025

Parveen Sharma	1. Whether speaking/ reasoned	:	Yes / No
	2. Whether reportable	:	Yes / No