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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 07.01.2025

Reena

....Petitioner

V/s

Vijaypal Singh Teji and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Jaspreet Singh Brar, Advocate for the petitioner.

SUMEET GOEL, J. (Oral)

1. The petition in hand has been preferred by the complainant/petitioner seeking quashing of the order dated 22.11.2023 (Annexure P-4) passed by learned Judicial Magistrate Ist Class, Faridkot whereby the criminal complaint filed by the petitioner (herein) under Section 138 read with Section 142 of the Negotiable Instrument Act, 1881 (hereinafter to be referred as ‘NI Act’) has been dismissed under Section 204 of Cr.P.C. (now Section 227 of BNSS, 2023). It would be apposite to refer herein to the impugned order dated 22.11.2023 which reads thus:

“Correct address of accused not furnished. Perusal of file reveals that the accused was summoned u/s 138 of NI Act vide order dated 12.08.2022 passed by this Court. Since then complaint has failed to provide the correct address of accused in order to effect the service of process. Complainant has already availed several opportunities in this regard. No representation is made by the learned counsel for the complainant in this regard. There is no ground to give any further opportunity to the complaint. As such, the complaint is dismissed under Section 204 Cr.P.C. on account of failure of complainant to provide the correct address of the accused. File be consigned to the Record Room.”

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2. Vide the impugned order, the criminal complaint preferred by the petitioner (herein) has been dismissed on account of non-furnishing of complete/correct address of the accused (who has been impleaded as respondent No.1 in the instant petition), and hence this Court does not deem it necessary to call upon the respondent side.

3. Learned counsel for the petitioner-complainant has urged that the address furnished in the memo of parties in the criminal complaint in question was correct and the respondent No.1-accused (herein) has been avoiding the service on one pretext or the other. It has been further iterated by the learned counsel that despite theailable warrants having been issued against the respondent No.1-accused (herein), he has intentionally chosen not to enter appearance. Learned counsel has further submitted that another criminal complaint under Section 138 read with Section 142 of the NI Act between the same parties is pending adjudication before the Judicial Magistrate Ist Class, Faridkot in which the respondent No.1-accused (herein) had entered appearance upon non-bailable warrants having been issued against him. To buttress his arguments, learned counsel for the petitioner has relied upon a copy of the order dated 10.09.2024 passed by Judicial Magistrate Ist Class, Faridkot (copy whereof has been appended as Annexure P-6 with the instant petition). It is thus, submitted that the impugned order deserves to be set-aside.

4. I have heard learned counsel for the petitioner and perused the paper-book.

5. In my considered opinion, once the respondent No.1-accused (herein) had already entered an appearance in another criminal complaint

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under Section 138 read with Section 142 of the Negotiable Instruments Act, 1881, involving the same parties, the concerned Judicial Magistrate ought to have exercised greater judicial discretion and should have been more considerate before dismissing the criminal complaint in question on account of non-furnishing of address and/or non-effecting of service of respondent No.1-accused (herein). Furthermore, the concerned Judicial Magistrate should have exercised judicial prudence by scheduling the instant complaint for hearing on the same date as the other criminal complaint in which the respondent No.1-accused (herein) had already entered an appearance. It is borne out from the record that the respondent No.1-accused (herein) took a loan from the petitioner-complainant. In order to discharge his liability, the respondent No.1-accused issued three cheques to the petitioner which were dishonoured and *qua* which three different complaints under the Negotiable Instruments Act, 1881 were filed against the respondent No.1-accused (herein). It is pertinent to mention herein that two complaints (one of which is the instant complaint) were dismissed by the learned Magistrate under Section 204 of Cr.P.C. whereas the third complaint is stated to be pending and in which the respondent No.1-accused had already entered appearance and furnished his bail bonds. As the complaints are interconnected and between the same parties, aligning the hearing of the complaints in question would have facilitated judicial efficiency and ensured procedural fairness. Moreover, such an approach would not only have reduced the risk of procedural anomalies but also minimized any undue inconvenience to the parties involved.



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6. In view of the circumstances as narrated hereinabove, it is, thus, directed as under:

- (i) The impugned order dated 22.11.2023 (Annexure P-4) is set-aside and the criminal complaint is directed to be restored to its original number and status/stage.
- (ii) The concerned Judicial Magistrate is directed to post the criminal complaint in question to the same date of hearing as is fixed in the another criminal complaint pending adjudication between the same parties so that requisite service can be effected upon the respondent No.1(herein) in the criminal complaint in question as well.
- (iii) The Sessions Judge, Faridkot is directed to assign the criminal complaint in question bearing No.NACT-318-2022 as well as criminal complaint (wherein order dated 10.09.2024 has been passed, copy whereof has been appended as Annexure P-6 with the instant petition) bearing No.NACT-286-2022, pending between the same parties, to the same Court for adjudication thereof in accordance with law.
- (iv) Pending application(s), if any, shall also stands disposed of.
- (v) Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case.

(SUMEET GOEL)
JUDGE

January 07, 2025
Ajay

Whether speaking/reasoned:	Yes
Whether reportable:	Yes