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

204 **CRM-M-9120-2024 (O&M)**
Date of Decision : 10.03.2026

SAROJ KAURA

...Petitioner

VERSUS

VENUS KAURA AND ANOTHER

...Respondents

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Sumeet Mahajan, Senior Advocate with
Ms. Shruti Singla, Advocate and
Mr. Shrey Sachdeva, Advocate
for the petitioner.

Mr. R.S. Bains, Senior Advocate with
Mr. Rajeev Godara, Advocate and
Ms. Divya Godara, Advocate
for respondent No.1.

Ms. Aarushi Garg, Advocate
for respondent No.2.

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AARADHNA SAWHNEY, J. (ORAL)

1. Petitioner has invoked jurisdiction of this Court u/s 482 Cr.P.C. seeking quashing of complaint bearing NACT No. 184 dated 06.04.2023 titled "*Venus Kaura Vs. Saroj Kaura*" u/s 138 NI Act read with Section 420 IPC (copy appended as Annexure P-3), summoning order dated 29.07.2023 passed by the then Sub Divisional Judicial Magistrate, Amloh (copy appended as Annexure P-9) and all consequential proceedings arising therefrom.

2. Relevant facts as emerging from documents on record be noticed hereinbelow:-

➔ Petitioner, a 71 years old lady, w/o of late Kamaljit, r/o ward No. 7, Adarsh Colony, Khanna, District Ludhiana, is the mother of

Sh. Vivek Kaura (hereinafter referred to as 'Respondent No.2') and the mother-in-law of Smt. Venus Kaura (wife of Vivek Kaura, hereinafter referred as 'Respondent No.1').

➔ Respondent No. 1, the daughter-in-law of the petitioner, filed the above-mentioned complaint bearing NACT No.184/2023, against her (petitioner), averring therein that she maintains a bank account No.0012900002762 with 'Yes Bank' (Branch Mandi Gobindgarh) and is also holding a FDR of Rs.1,00,20,000/- in her own name, apart from some other amount in the said account. According to her (respondent No.1), Petitioner and her husband i.e. respondent No.2 are maintaining a joint account bearing No. 55033572664 in State Bank of India (Branch G.T. Road Mandi Gobindgarh). She (respondent No.1 herein) alleged that on 05.10.2019, on the request of her husband and mother-in-law, she transferred funds through RTGS amounting to Rs.25,00,000/- from her account in 'Yes Bank' to their above mentioned joint account in SBI Bank. Joint FDR was created of this amount in the name of two joint holders i.e. her mother-in-law (petitioner) and her husband (Respondent no.2).

➔ She further alleged that on 28.11.2019 as well, acceding to their request, Rs.50,00,000/-, Rs.51,10,000/- and Rs.9,00,000/- were transferred through RTGS in the above-mentioned joint account of Petitioner and Respondent No.2. As such, complainant(Respondent No.1) alleged that she had transferred Rs.1,35,10,000/- (Rs.25,00,000 + Rs. 50,00,000/-, Rs.51,10,000/- and Rs.9,00,000) in the joint account of her husband and mother-in-law (respondent No.2 and petitioner, respectively).

➔ The entire amount was kept by the two joint holders in the shape of FDRs in their joint name.

➔ It is further her stand that later her name was also added in the above-said joint FDRs, which is now in her name, in the name of her mother-in-law (petitioner) and her husband (respondent No.2).

➔ In the complaint, complainant (Respondent No.1) claimed that the entire amount under the FDRs belongs to her, as the said amount was transferred by her from her own exclusive account in 'Yes Bank' through RTGS. Complainant also maintained that FDR of Rs.25,00,000/- was encashed and thereafter, another FDR bearing No.38692711719 for an amount of Rs.17,16,712/- was made in the joint account held by her, her mother-in-law i.e. present petitioner and her husband i.e. respondent No.2.

➔ The categoric stand of complainant is that the entire amount belongs to her, and that her mother-in-law i.e. present petitioner is under legal and moral obligation to return the said amount, who in discharge of this legally enforceable debt, issued Account Payee Cheque No.892005 dated 20.12.2022 for Rs.1,10,00,000/- drawn on State Bank of India (Branch G.T. Road, Mandi Gobindgarh) from her account No.55033572664, in her (complainant's) favour. At the time of issuing the said cheque, as has been further alleged by complainant (Respondent No.1) in her complaint, petitioner had assured her that the same would be honored /encashed upon presentation. Contrary to these assurances, however, as per complainant (Respondent No.1) when the said cheque was presented by her through her banker i.e. Bank of Baroda, the same was returned with the remarks "*Funds Insufficient*" on 22.02.2023.

➔ Thereafter, after complying with the statutory formalities, the complaint in question bearing NACT No.184/2023 was instituted. Complainant led preliminary evidence. Based on the same, the impugned summoning order dated 29.07.2023 was passed.

3. Learned counsel for the petitioner at the outset contends that the above-mentioned criminal complaint was filed by respondent No.1, by deliberately suppressing the material facts. She did not disclose that even the joint FDRs in her name and in the name of her mother-in-law ie. petitioner are in her i.e. respondent No.1's possession. At no point in time, petitioner had ever asked respondent No. 1 to deposit any amount in SBI joint account held by her (P) and her son (Respondent No.2), nor did she issue the cheque in question dated 20.12.2022 in favour of Respondent No.1. Continuing further, learned counsel contends that respondent No.2 is the only son of petitioner, a widow living in the same house, in which both the respondents are residing. She was dependent upon him for emotional, social support and reposing implicit faith on him, she (P) used to sign the papers and cheques, on his instructions in routine manner. <u>The cheque in question was never handed over by her (P) to her daughter-in-law i.e. Respondent No.1, nor did she instruct her son to act on her behalf in this regard</u>.

Learned counsel next contends that in fact, respondent No.2 was in possession of the blank cheque book of his mother i.e. petitioner and shockingly enough, misused his position by fabricating the cheque and later handed over the same to his wife i.e. Respondent No.1, without knowledge/consent of his mother i.e. petitioner. Both the respondents in collusion with each other and with an intention to deceive the old woman (P) misappropriated the cheque. Learned counsel further submits that a bare perusal of the cheque would reveal that the words "*Venus Kaura*", the amount written in words i.e. "*One Crore ten Lacs only*" as well as figures are totally different than the signatures on the cheque. Thus, the plea of petitioner is that her signatures on the blank cheques including the cheque in question were obtained by Respondent No.2 for Respondent No.1 and both of them in collusion with each other have mis- utilized the same only with a view to pressurize her (P) to withdraw the Suit for Permanent Injunction filed by her, whereby orders have been passed against them (respondents) restraining them from making payment or getting released the amount of FDR No.28956253613 (maturity amount of Rs.1,28,13,499/-) as on 28.02.2023. Copy of the plaint in Civil Suit No.71 of 2023 titled "*Saroj Kaura Vs. SBI and Venus Kaura*", copy of written statement filed by Respondent No.1 in the aforesaid Civil Suit, as also copy of order dated 16.02.2023 passed by Additional Civil Judge (Senior Division), Amloh, restraining both the respondents, appended along with petition as Annexures P-6, P-7 and P-8, respectively, have also been referred to.

Taking his submissions further learned counsel contends that a careful reading of the complaint filed by Respondent No.1 goes to show that in the said complaint, she herself admitted that the amount allegedly deposited by her in joint account of her mother-in-law i.e. petitioner and her husband i.e Respondent No.2 was put in fixed deposit. Initially this FDR was in the name of petitioner and Respondent No.2, later even the name of complainant i.e. respondent No.1 was added; meaning thereby that presently the joint FDRs are in the name of petitioner and Respondent No.1, thus the question of petitioner being under legally enforceable debt does not arise. Consequently, there was no occasion for the petitioner to have issued account payee cheque No.892005 dated 20.12.2022 drawn on State Bank of India (branch G.T.Road, Mandi Gobindgarh) from her account, in favour of Respondent No.1. Further the FDRs (No.38956253613 and 38692711719) are still in custody of Respondent No.1, the amount allegedly deposited by her (Respondent No.1) is actually in her custody.

Learned counsel further points out that from the joint saving Account No.55033572664 of petitioner and her son (respondent No.2), a cheque No.892007 dated 18.07.2022 of Rs. 71,50,000/- was issued by Respondent No.2 in his own favour, to be deposited in his another account (No. 55033584206) in the same bank, thus, clearly suggesting that in fact respondent No. 2 had been operating the said joint account, held by him and his mother. By playing a fraud on his own mother, he obtained her signatures on blank cheque/cheques and projected as if the cheque in question had been issued by her (P) in discharge of her legally enforceable debt (copies of the said cheque have been appended as Annexure P-10 and P-11 have also been referred to).

Further, dishonest intention on the part of Respondent No.2, to cheat his own mother i.e. petitioner, is evident from the fact that the dishonoured cheque bearing No. 892005 is dated 20.12.2022, whereas the subsequent cheque No.892007 (referred hereinabove) is dated 18.07.2022, thus, clearly indicating that the cheque in question bearing No.892005 was got issued by respondent No.2 in advance from his mother and was later mis-utilized only with a view to pressurize the old woman to withdraw the above referred Civil Suit. Taking note of all these facts and documents appended along with the Suit, learned Additional

Civil Judge (Senior Division), Amloh, directed that FDRs of Rs.25,00,000/- and Rs.1,11,51,000/- be frozen and also restrained both the respondents from getting the same encashed.

The extent to which respondents have stooped is further evident from the fact that the family pension admissible to petitioner after the death of her husband was being received and credited in the account No. 55033572664 in SBI Bank, jointly held by petitioner along with her son, who even withdrew the said amount on the strength of the cheques got issued from her from time to time.

Primarily based on these submissions, learned counsel contends that no amount is due from petitioner to Respondent No.1, thus the question of her (P) issuing cheque in favour of Respondent No.1 to discharge her legally enforceable debt does not arise. The amount allegedly transferred by Respondent No.1 has been converted into FDR in her name and in the name of present petitioner, which has not been encashed. No offence u/s 138 Negotiable Instruments Act, as per learned counsel is made out, as there is no legally enforceable debt. It has thus been prayed that if the complaint in question is allowed to continue, the same would be sheer abuse of process of law.

4. On notice, both the respondents appeared and filed separate detailed replies, opposing the petition. In the reply filed by Respondent No.1, at the outset question-mark was raised on the maintainability of present petition on the ground that since disputed question of facts are raised/involved, which can be adjudicated upon only after parties lead their respective evidence, no case for quashing the FIR and complaint is made out. It was further pointed out that allegations levelled in the complaint *prima facie* make out a case against the petitioner u/s 138 of the NI Act. Further, in view of Section 139 of NI Act, it has to be presumed that the

cheque in question was issued by petitioner in discharge of her legally enforceable debt, unless the contrary is proved by leading cogent evidence. That apart, petitioner has also concealed the material facts, inasmuch as she failed to demonstrate her contribution in the disputed FDRs amount. On merits, the stand of Respondent No.1 is that till 2009, they all i.e. petitioner, Respondent No.1 and Respondent No.2 had been living harmoniously, but after the death of petitioner's husband, the business being initially operated by him was transferred to Respondent No.2, who had made investments in the business with the assistance of Respondent No.1 and her parents. Her family had invested lot of money in the business. Unfortunately, after some time, petitioner's daughter and her husband, developed interest in the property and with a desire to grab the joint family property/other assets, they started influencing petitioner against both the respondents. In the light of ongoing multiple litigation between the parties, relations between them have strained. It is further the plea of Respondent No.1 that the entire amount covered in the aforesaid two FDRs amounting to Rs.25,00,000/- and Rs.1,11,51,000/- belong to her, as she had initially transferred the amount from her account in "Yes Bank" into the joint account of petitioner and Respondent No.2, as also that subsequently, she has been made the joint holder in these two FDRs. But since the money belongs to her, petitioner is under legal and moral obligation to return the same. In discharge of the legally enforceable debt, petitioner issued account payee cheque bearing No. 892005 dated 20.12.2022 amounting to Rs.1,10,00,000/- which when presented to the bank was returned with the remarks 'Funds Insufficient'. In the light of the facts brought on record, coupled with the supporting documents, prima facie case u/s 138 NI Act is made out against petitioner. Learned trial Court rightly summoned the petitioner vide order dated 29.07.2023 The said order being legal and valid does not call for any interference.

Almost on similar lines is the reply of Respondent No.2.

Learned counsel for both the respondents has virtually repeated what was stated in the joint replies. He vehemently contends that the Question as to whether petitioner was under legally enforceable debt is a question of fact which would be adjudicated upon only after parties lead their respective evidence. Such factual defences cannot be adjudicated upon by this Court in exercise of its inherent jurisdiction under Section 482 Cr.P.C. Learned trial Court after meticulously analysing the evidence adduced on the case file, rightly summoned the petitioner as an 'accused' u/s 138 NI Act. Present petition having been filed with a *mala fide* intention and by concealing material facts deserves dismissal.

In support of his submission, learned counsel for respondents have also placed reliance on following judgments of Hon'ble Supreme Court:-

(i) '***Rallis India Ltd. Poduru Vidya Bhusan and others'*** (2001(13) SCC 18)

(ii) ***'Sampelly Satyanarayan Rao Vs. India Renewable Energy Development Agency Ltd.'*** (2016(10) SCC 458)

(iii) '***M/s Sri Om Sales Vs. Abhay Patel and another***' (2025 INSC 1474)

(iv) '***Sumit Bansal Vs. M/s MGI Developers and Promotors and another***' (2026 INSC 40)

5. I have heard the learned counsel for the parties and have also gone through the record with their able assistance.

6. *Law is no longer Res Integra that while considering a prayer for quashing the complaint and the consequential proceedings arising therefrom at the threshold, the Court has to examine as to whether the allegations levelled in*

the complaint along with the material in support thereof make out a prima facie case to proceed further against the accused or not. If on bare reading of the complaint and the documents appended along with, the Court is of the opinion that the material brought on record, is sufficient to proceed further against the accused, the complaint cannot be quashed. But if from the facts, documents and other connecting circumstances adduced on the case file, no prima facie offence is made out against the accused, continuation of the criminal complaint would then amount to sheer abuse of process of the law and in such an eventuality, the complaint can be quashed at the initial stage.

In case titled ***State of Haryana and others Vs. Bhajan Lal and others (1991(1) RCR (Criminal) 383***, the Hon'ble Supreme Court discussed the scope of Section 482 Cr.P.C. and held as under:-

> *" 107 ...xxx xxx xxx*
>
> *1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
>
> *2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
>
> *3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
>
> *4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*
>
> *5. Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever*

reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

In ***Suryalakshmi Cotton Mills Ltd. Vs. Rajbir Industries Ltd. (2008) 13 SCC 678***, Hon'ble Supreme Court held as under:-

17. The parameters of jurisdiction of the High Court in exercising its jurisdiction under Section 482 of the Code of Criminal Procedure is now well settled. Although it is of wide amplitude, a great deal of caution is also required in its exercise. What is required is application of the well-known legal principles involved in the matter.

xxx xxx xxx

22. Ordinarily, a defence of an accused although appears to be plausible should not be taken into consideration for exercise of the said jurisdiction. Yet again, the High Court at that stage would not ordinarily enter into a disputed question of fact. It, however, does not mean that documents of unimpeachable character should not be taken into consideration at any cost for the purpose of finding out as to whether continuance of the criminal proceedings would amount to an abuse of process of court or that the complaint petition is filed for causing mere harassment to the accused. While we are not oblivious of the fact that although a large number of disputes should ordinarily be determined only by the civil courts, but criminal cases are filed only for achieving the ultimate goal, namely, to force the accused to pay the amount due to the complainant immediately. The courts on the one hand should not encourage such a practise; but, on the other, cannot also travel beyond its jurisdiction to interfere with the proceeding which is otherwise genuine. The courts cannot also lose sight *of the fact that in certain matters, both civil proceedings and criminal proceedings would be maintainable."*

Reverting back to the facts of the case in hand, complainant (Respondent No.1 herein) in complaint bearing NACT No. 184 dated 06.04.2023 titled *'Venus Kaura Vs. Saroj Kaura'* filed by her, claimed that the entire amount in two FDRs (No.38956253613 and 38692711719) belongs to her and that it was only on the request of petitioner that she had transferred the said amount from her exclusive bank account No.0012900002762 with 'Yes Bank' (Branch Mandi Gobindgarh), in the account bearing No.55033572664 jointly held by her mother-in-law and her husband (petitioner and respondent No.2 herein, respectively). It is not denied that she subsequently became a joint holder in the above-mentioned FDRs along with petitioner, as also that these FDRs are in her (Respondent No.1's) possession.

Plea of the petitioner has already been noticed in the earlier part of this judgment. The old lady alleges that her own son and daughter-in-law have cheated her, they misused the implicit faith that she reposed on them and taking undue advantage of her old age, her son i.e. respondent No.2 made her sign on certain documents and blank cheques, which were later misused. It is further the stand of petitioner that the amount transferred by her daughter in-law i.e. respondent No.1 in the joint account held by her (P) and her son i.e. Respondent no. 2 was secured in the shape of FDRs held jointly by her (P) and her daughter-in-law/Respondent no. 1. These FDRs admittedly are in possession of Respondent No.1. Thus, in the factual scenario of the case in hand, the question of petitioner being under any legally enforceable debt does not arise, hence, there was no occasion for her to have issued an account payee cheque bearing No.862005 dated 20.12.2022 drawn on SBI Bank (Branch GT Road, Mandi Gobindgarh) from her account in favour of respondent No.1. There also appears to be substance in the stand of the petitioner, who has lost her husband and is living with her son (respondent No.2) and daughter-in-law (respondent No.1) in the same house, that she reposed utmost faith on her son and at his asking used to sign cheques/certain documents in routine. The fact that from the joint saving account of petitioner and her son, a cheque No.892007 dated 18.07.2022 of Rs.71,50,000/- was issued by respondent No.2 in his favour, which was later deposited by him in his another account (No.55033584206) in the same bank renders support to her stand that in fact respondent No.2 had been operating the joint account held by him and his mother.

It has already been noticed that prior to the institution of complaint bearing NACT No.184 dated 06.04.2023 titled "*Venus Kaura Vs. Saroj Kaura*" u/s 138 of NI Act, a suit for permanent injunction had also been filed by petitioner against both the respondents, praying therein that they be restrained from making the payment or releasing the amount of FDR No.28956253613 and maturity amount of Rs.1,28,13,499/- as on 28.02.2023. Taking note of all the documents, the learned Additional Civil Judge (Senior Division), Amloh in terms of order dated 16.02.2023, directed that the FDRs be frozen and restrained respondents from getting the same encashed.

Questionable intent on the part of respondent No.2, to cheat his own mother is further evident from the fact that the dishonoured cheque bearing No. 892005 is dated 20.12.2022, whereas the subsequent cheque bearing No.892007 is that of 18.07.2022. When appreciated in the light of documents and other connecting circumstances brought on record, this indicates even at the initial stage that the cheque in question was got issued by respondent No.2 in advance from his mother i.e. petitioner and was later misused only with an aim to compel her to settle the civil dispute/withdraw the said Suit filed by her (petitioner).

7. In view of discussion made hereinabove, this Court is of the opinion that continuance of complaint bearing NACT No.184 dated 06.04.2023 titled *'Venus Kaura Vs. Saroj Kaura'* against petitioner would be sheer abuse of process of law. Resultantly, the present petition is allowed. Complaint bearing NACT No.184 dated 06.04.2023 titled *'Venus Kaura Vs. Saroj Kaura'* u/s 138 of Negotiable Instruments Act read with Section 420 IPC and the summoning order dated 29.07.2023 (Annexure P-9) and all consequential proceedings arising therefrom against the petitioner are hereby quashed.

All pending miscellaneous application(s), if any, also stands disposed of.

(AARADHNA SAWHNEY)
JUDGE

10.03.2026
Nisha Yadav

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No