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

**CRM-M-45836-2018
Reserved on: 09.02.2026.
Pronounced on: 11.02.2026**

M/S MOHAN RAIL COMPONENTS PVT. LTD. AND ANR.

..... PETITIONERS

VERSUS

M/S J.S.S. STEELITALIA LTD.

..... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Pulkit Sachdeva, Advocate and
Mr. V.K. Sachdeva, Advocate
for the petitioners.

Mr. Vishwajeet Singh, Advocate
for the respondent.

SURYA PARTAP SINGH. J.

1. This petition under Section 482 of Cr.P.C. has been filed for quashing of order dated 14.05.2018, whereby the application moved by the petitioner seeking for discharge has been dismissed.

2. The above-mentioned application was moved by the petitioner, who is facing trial for the commission of offence punishable under Section 138 of Negotiable Instruments Act, vide complaint No.15406 of 2016, in the Court



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of learned Judicial Magistrate, Gurugram, hereinafter being referred to as 'trial Court'.

3. Heard.

4. It has been contended on behalf of petitioner that the petitioner is being forced to face the agony of trial in a case which is apparently barred by law of limitation, and therefore, even the cognizance against the petitioner should not have been taken by the learned trial Court. According to learned counsel for the petitioner in the above-mentioned complaint, the petitioner had moved an application for discharge on the ground that the limitation period prescribed for filing of complaint was not adhered to, but the learned trial Court ignored the above-mentioned legal pleas raised by the petitioner and dismissed the above-mentioned application.

5. According to learned counsel for the petitioner, the impugned order is against the fact as well as law, and that the failure of learned trial Court to appreciate the factual and legal matrix involved in the present case is resulting into miscarriage of justice. According to learned counsel for the petitioner the impugned order will unnecessarily increase the burden of the Court, as ultimately the prosecution is bound to fail on account of bar of limitation.

6. With regard to above-mentioned contention, the learned counsel for the petitioner has alleged that in the present case, there are very specific allegations of the complainant himself that the cheque was dishonoured on 27.09.2016, and that on receipt of information with regard to dishonour of cheque, the legal notice was issued by the respondent/complainant on 25.10.2016, which was dispatched on 27.10.2016. As per learned counsel for



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the petitioner once the cheque was dishonoured on 27.09.2016, the last date for issuing notice to the petitioner was 26.10.2016, but as per the contents of petition itself shows that the cheque was dispatched on 27.10.2016 i.e. beyond the period of limitation.

7. In addition to above, the learned counsel for the petitioner has also contended that with regard to the notice which was dispatched on 27.10.2016, the criminal complaint could have been filed latest by 11.12.2016, but the present complaint was filed on 13.12.2016 and there is neither any explanation to justify the above-mentioned delay nor any request for condonation of delay, and therefore, being time barred the complaint was bound to be dismissed, but the learned trial Court failed to appreciate the above-mentioned legal position and instead of dismissing the complaint filed by the respondent even refused to discharge the petitioner.

8. In support of his contentions, the learned counsel for the petitioner has relied upon the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Econ Antri Ltd. vs. Rom Industries Ltd. and another' Criminal Appeal No.1079 of 2006 [decided on 26.08.2013].

9. The above-mentioned arguments have been controverted by learned counsel for the respondent. According to learned counsel for the respondent in the present case the bar of limitation is not attracted as the notice was issued within time frame prescribed under the law and after issuance of notice the complaint too has been filed within the period of limitation. According to learned counsel for the respondent with regard to dishonour of cheque, vide memo dated 27.09.2016, intimation was received by him after three days and thereafter within 30 days, i.e. on 27.10.2016, the legal notice was



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dispatched. According to learned counsel for the respondent this notice was issued within the prescribed period of 30 days.

10. The learned counsel for the respondent has further contended that with regard to notice issued at 27.10.2016, one of the aspect to be proved by the respondent during the course of trial is the date of delivery of notice upon the petitioner. As per learned counsel for the respondent the period of limitation for filing of complaint shall commence from the date of service of notice and that to prove the above-mentioned fact the petitioner will lead evidence before the learned trial Court. While claiming that the factual matrix involved in the present case makes it clear that to deal with the plea raised by the petitioner appreciation of evidence is necessary, the learned counsel for the respondent has contended that the present petition is devoid of merits and deserves dismissal.

11. In support of his contentions, the learned counsel for the respondent has relied upon the principles of law laid down by the Hon'ble Supreme Court of India in the cases of 'Jindal Steel & Power Ltd. & Anr. vs. Ashoka Alloy Steel Ltd. & Ors.' Criminal Appeal No.314 of 2004 [decided on 08.11.2005] and 'M/s Saketh India Ltd. vs. M/s India Securities Ltd.' Criminal Appeal Nos.288-289 of 1999 [decided on 10.03.1999].

12. The record has been perused carefully.

13. In the present case a perusal of record shows that although the plea of limitation has been raised by the petitioner, but this fact cannot be ignored that the delay on the part of respondent is of few days only, such as with regard to dishonour of cheque, qua memo dated 27.09.2016, the legal notice was issued on 27.10.2016. If the respondent is successful in proving



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before the learned trial Court that he received information with regard to dishonour of cheque after one or two days from the date of dishonour of cheque, the above-mentioned notice would be in conformity with the timeline prescribed under the law.

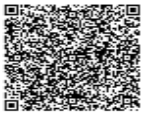
14. Similarly with regard to timeline prescribed for filing of complaint the crucial component is the date of actual delivery of notice upon the petitioner. During the course of trial if the respondent is successful in leading evidence to show that the legal notice was served upon the petitioner after two, or more, days of its issuance, the complaint, which was filed on 13.12.2016, would be within the prescribed period of limitation.

15. Thus, the factual matrix of the present case leads to the conclusion that to determine the issue with regard to bar of limitation in issuing the legal notice, and filing the complaint, can be determined only by appreciation of evidence which is a subject matter of trial only.

16. In view of above-mentioned observations, it is hereby observed that no error of judgment has been committed by the learned trial Court while declining the application of the petitioner for discharge.

17. In view of above-mentioned observations, it is hereby held that there is no scope for interference and indulgence in the findings returned by the learned trial Court in the of impugned order. Thus, it is hereby held that present petition is devoid of merits and deserves dismissal. The same is hereby dismissed accordingly.

18. However, it is clarified here that any observation made in this order shall not debar the petitioner from raising objection with regard to bar of



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limitation at the time of final adjudication of the case and anything observed hereinabove, shall not be construed as an expression of view on merit.

(SURYA PARTAP SINGH)
JUDGE

11.02.2026
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Whether speaking/reasoned : Yes
Whether Reportable : No