

(2010) 09 P&H CK 0386

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal M. No. M-26827 of 2010 (O and M)

Ram Singh and Another

APPELLANT

Vs

Shobit Polyclinic Pvt. Ltd.

RESPONDENT

Date of Decision: Sept. 13, 2010

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Negotiable Instruments Act, 1881 (NI) - Section 138

Hon'ble Judges: Jaswant Singh, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Jaswant Singh, J.

Prayer u/s 482 Cr.P.C. is for setting aside the order dated 14.8.2010 (P6) passed by learned JMHC Hisar, whereby the application filed by petitioner No. 1 for admission and denial regarding the execution of certificate dated 15.11.2009 (P2) by respondent was dismissed

2. A perusal of the petition reveals that respondent/complainant-company is an authorised stockist of M/s Standard Combines Pvt. Ltd., Barnala for sale of its "Standard Tractors" for the State of Haryana. Petitioner-accused being authorised dealer used to get tractors from the complainant company on credit basis and make payment afterwards. In part payment towards discharge of such a liability, the petitioners issued a cheque No. 0069125 dated 1.7.2006 for Rs. 3,55,000/- drawn on Central Bank of India, Pillu Khera(Jind) Branch favouring the complainant. On presentation by the complainant, the said cheque was dishonoured as the petitioners had issued "Stop payment" instructions to its bankers. After completing the statutory formalities, respondent complainant company filed a complaint case No. 959-R35/9.10.2006/27.5.2010.

3. It is in the aforesaid complaint case No. 959-R35/9.10.2006/27.5.2010 that petitioners moved an application (P4) for admission and denial by respondent regarding execution of certificate dated 15.11.2009 (P2). Respondent-complainant filed reply (P3) to the said application. After hearing both sides the learned trial Court vide impugned order dated 14.8.2010 (P6) dismissed the said application. Hence the present petition u/s 482 Cr.P.C.

4. It is submitted by the learned Counsel that the accused-petitioners had settled the account with the respondent-complainant, who in turn had issued certificate dated 15.11.2009(P2) admitting the settlement of account. It is further submitted that on the basis of said certificate dated 15.11.2009(P2), the offence was compounded and the conviction and sentence imposed by learned CJM Hisar and confirmed by this Court, was set aside by Hon"ble the Supreme Court. It is thus, contended that the learned trial Court has erred in dismissing the application.

5. After hearing the learned Counsel and perusing the paper book, I find no merit in the present petition and the same is liable to be dismissed.

6. A perusal of the certificate dated 15.11.2009(P2) executed by respondent-complainant reveals that it was with regard to Criminal Complaint No. 20-II dated 3.8.2005 u/s 138 of the Negotiable Instruments Act. The amount involved in that case was Rs. 3,26,833/-, and since petitioners had paid the said amount to complainant/respondent, he had issued the said certificate dated 15.11.2009 (P2) acknowledging therein the receipt of Rs. 3,26,833/- and further giving no objection therein if the petitioners were absolved of the charges. It is on the basis of this certificate that Hon"ble the Supreme Court vide order dated 14.2.2009 (P3) had permitted compounding of offence and set aside the conviction and sentence of the petitioners u/s 138 of the Negotiable Instruments Act, in complaint No. 20-II dated 3.8.2005.

7. Learned Counsel for the petitioners could not dispute that the present application was moved in another complaint No. 959-R35/9.10.2006/27.5.2010 in which the amount involved is Rs. 3,55,000/-, whereas the certificate dated 15.11.2009 (P2) was with regard to Complaint No. 20-II dated 3.8.2005 and the amount involved therein was Rs. 3,26,833/-. Thus, it is amply clear that the said certificate was confined to complaint No. 20-II dated 3.8.2005 and has no bearing to the present complaint No. 959-R35/9.10.2006/27.5.2010.

8. Accordingly, no fault can be found with the impugned order dated 14.8.2010 (P6) whereby the application filed by the petitioner for admission and denial regarding the execution of the certificate dated 15.11.2009(P2) was dismissed.

9. For the reasons stated above, the present petition is dismissed.