

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
(THROUGH VIRTUAL MODE)**

CRM(M) No. 82/2023

Aijaz Hussain Rather

..... Petitioner (s)

Through :- Mr. Irshad Rasheed Advocate.

V/s

Jeelani Ahmad Dar

.....Respondent(s)

Through :- Mr. Inayat Jamal Advocate.

Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER

1 Through the medium of present petition, the petitioner has challenged the complaint filed by the respondent against him, alleging commission of offences under Section 138 of the Negotiable Instruments Act, which is stated to be pending before the Court of learned CJM, Budgam. Challenge has also been thrown to order dated 12.04.2022 passed by the learned CJM, Budgam whereby process has been issued against the petitioner.

2 Heard and considered.

3 It appears that the respondent has filed a complaint against the petitioner in respect of two cheques; one dated 25.02.2022 for an amount of Rs.23,17,500 and another dated 02.03.2022 for an amount of Rs.23,17,500. As per the complaint, both these cheques were issued by the petitioner in discharge of a legally enforceable liability, but when the complainant/respondent approached its banker, J&K Bank, Branch Narbal Budgam, both these cheques were dishonoured in terms of memos issued by

the banker on the ground of insufficiency of funds. It has been pleaded by the complainant/respondent that a legal notice of demand dated 25.03.2022 was served upon the petitioner, but he has not paid the cheque amount within the stipulated time, thereby compelling him to file the impugned complaint.

4 The ground urged by the learned counsel for the petitioner for impugning the order of learned CJM, Budgam, whereby process has been issued against him, is that the said Court did not have jurisdiction to issue the process, inasmuch as, the banker of the complainant/ respondent is located beyond the territorial jurisdiction of CJM, Budgam. It has been contended that as per Section 142 of the Negotiable Instruments Act, it is only the Magistrate within whose local jurisdiction the cheque is delivered for collection or where the cheque is presented for payment by the payee which has the jurisdiction to entertain the complaint. Therefore, it is the Judicial Magistrate 1st Class, Magam, which has the jurisdiction to entertain the present complaint and not the CJM, Budgam.

5 The argument advanced by learned counsel for the petitioner is absolutely frivolous, for the reason that a Chief Judicial Magistrate of a District is vested with territorial jurisdiction in respect of whole of the District. The impugned complaint has admittedly been filed before the Court of learned CJM, Budgam, who has been vested with power over the local limits of whole of the District Budgam, which includes Narbal, the place where the respondent had presented the cheques for encashment. Therefore, the learned CJM, Budgam was well within his jurisdiction to entertain the impugned complaint and take cognizance of the offences.

6 The next ground that has been urged by the learned counsel for the petitioner is that the impugned order, whereby the learned CJM has taken

cognizance of the offences and issued process against the petitioner, is cryptic in nature and bereft of any details.

7 In this regard, a perusal of the impugned order dated 12.04.2022 goes on to show that the learned CJM Budgam has, after going through the complaint, the preliminary statement of the complainant, and the documents annexed to the complaint, framed an opinion that an offence under Section 138 of the Negotiable Instruments Act is made out against the petitioner, whereafter, the process has been issued against him. The said order may be concise in nature, but nonetheless it clearly reflects the application of mind on the part of learned CJM, Budgam, to the material on record. It is not necessary for a Magistrate to reproduce all the allegations made in the complaint in his order while taking cognizance of the offences. If such an order reflects the application of mind on the part of the Magistrate to the material before him and it bears reference to such material, the said order would be legally perfect and cannot be interfered with. The impugned order clearly satisfies the aforesaid requirement of law, as such, the same cannot be interfered with.

8 For the foregoing reasons, I do not find any merit in this petition. The same is, accordingly, dismissed. Interim direction, if any, shall stand vacated.

(SANJAY DHAR)
JUDGE

Jammu
04.02.2025
Sanjeev

Whether order is reportable: Yes/No