

Reportable

IN THE HIGH COURT OF DELHI AT NEW DELHI

CRL.M.C. 3019/2006 & CRL.M.A. No. 4950/2006(stay)

Reserved on : 11th February, 2008
Date of decision : 27th March, 2008

RAVI GUPTA Petitioner
Through Mr. R.K. Mittal, Advocate.

versus

R.C.TIWARI Respondent
Through Mr. H.S. Bhullar, Advocate.

CRL.M.C. 3022/2006 & CRL.MA No. 4953/2006(stay)

RAVI GUPTA Petitioner
Through Mr. R.K. Mittal, Advocate.

versus

M/S TULSHAN INTERNATIONAL Respondent
Through Mr. H.S. Bhullar, Advocate.

CRL.M.C. 3023/2006 & CRL.MA. No. 4954/2006(stay)

RAVI GUPTA Petitioner
Through Mr. R.K. Mittal, Advocate.

versus

SARLA TULSHAN Respondent
Through Mr. H.S. Bhullar, Advocate.

CRL.M.C. 3037/2006 & CRL.MA. No. 4973/2006(stay)

RAVI GUPTA Petitioner
Through Mr. R.K. Mittal, Advocate.

versus

M/S KANISHKA ENTERPRISES LTD. Respondent
Through Mr. H.S. Bhullar, Advocate.

AND

CRL.M.C. 3056/2006 & CRL.MA. 4998/2006(stay)

RAVI GUPTA Petitioner
Through Mr. R.K. Mittal, Advocate.

versus

J.M.BHASIN Respondent

Through Mr. H.S. Bhullar, Advocate.

CORAM:

HON'BLE DR. JUSTICE S. MURALIDHAR

- | | |
|--|-----|
| 1. Whether Reporters of local papers may be allowed to see the judgment? | YES |
| 2. To be referred to the Reporter or not? | YES |
| 3. Whether the judgment should be reported in Digest? | YES |

Dr. S. MURALIDHAR, J.

1. The point for consideration in these petitions under Section 482 of the Code of Criminal Procedure 1973 (CrPC) is whether a complaint under Section 138 of the Negotiable Instruments Act 1881 ('NI Act') can be filed by a complainant through a power of attorney (POA).

2. The Petitioner is the accused in Complaint Case Nos. 460/1 of 2005 titled *R.C. Tiwari v. Ravi Gupta*, 461/1 of 2005 titled *M/s. Tulshan International v. Ravi Gupta*, 622/1 of 2005 titled *Sarla Tulshan v. Ravi Gupta*, 462/1 of 2005 titled *M/s. Kanishka Enterprises Limited v. Ravi Gupta* and 621/1 of 2005 titled *J.M. Bhasin v. Ravi Gupta* pending in the court of learned Metropolitan Magistrate ('MM'), Delhi. The petitioner has been summoned in these complaints for the offence under Section 138 NI Act.

3. The allegations in the complaints are more or less similar. It is stated that cheques for various sums of moneys drawn by the accused in favour of the complainant when presented to the bank for payment were returned dishonoured with the remarks 'funds insufficient'. With no payment having been made despite demand notices, the complaints were filed.

4. Crl. M.C. 3019 of 2006 seeks the quashing of Complaint Case No. 460/1

of 2005 titled ***Shri R.C. Tiwari v. Shri Ravi Gupta***. The complaint is about the dishonor of cheque No. 085312 dated 6th December 2004 for a sum of Rs.5 lakhs and cheque No. 386087 dated 7th December 2004 for a sum of Rs. 5 lakhs in alleged discharge of the liability towards repayment of loans taken from the complainant by the accused.

5. Crl. M.C. 3022 of 2006 seeks the quashing of Complaint Case No. 461/1 of 2005 titled ***M/s. Tulshan International v. Ravi Gupta*** in respect of three cheques: cheque No. 386091 dated 8th December, 2004 for a sum of Rs.5 lakhs, cheque No. 386093 dated 9th December, 2004 for a sum of Rs.5 lakhs and cheque No.085311 dated 9th December, 2004 for a sum of Rs. 5 lakhs. Each of these cheques when presented for payment was returned with the remarks 'funds insufficient'. This Complaint Case No. 461/1 of 2005 indicates that it is filed on behalf of the firm M/s. Tulshan International, a partnership firm, through its POA holder Shri R.C. Tewari. It is accompanied by evidence by way of an affidavit of Shri R.C. Tewari. The complaint has been signed by Saroj Hegde for the complainant and the first paragraph of the complaint says that the firm has authorised Shri R.C. Tiwari to prosecute the complaint. The POA executed in favour of Shri R.C. Tiwari has been placed on record. The learned MM by an order dated 14th February, 2005 summoned the accused under Section 138 NI Act. The recall of the summoning order was sought by the Petitioner but that application was dismissed by a detailed order dated 3rd February, 2006.

6. Crl. M.C. 3023 of 2006 seeks the quashing of Complaint Case No. 622/1 of 2005 titled ***Sarla Tulshan v. Ravi Gupta*** in respect of cheque No. 386094

dated 31st December 2004 for a sum of Rs.5 lakhs. Ms. Sarla Tulshan again filed this complaint through her POA Shri R.C. Tiwari and a copy of the POA was enclosed with the complaint as Annexure A. The cheque when presented for payment was returned with the remarks 'account closed'. By an order dated 18th March 2005, the learned MM summoned the Petitioner under Section 138 NI Act. The petition seeking recall of the said order was dismissed on 6th October 2006.

7. Crl. M.C. 3037 of 2006 seeks the quashing of Complaint Case No. 462/1 of 2005 titled *M/s. Kanishka Enterprises Limited v. Ravi Gupta* in respect of three cheques: cheque No. 386088 dated 9th December, 2004 for a sum of Rs.5 lakhs, cheque No. 386089 dated 9th December, 2004 for a sum of Rs.5 lakhs and cheque No. 386090 dated 9th December, 2004 for a sum of Rs.5 lakhs. This complaint is signed by an authorized person for the complainant and filed through its POA holder Shri R.C. Tiwari. The cheques when presented for payment were returned with the remarks 'funds insufficient'. The application for recall was dismissed by the learned MM by an order 3rd February 2006.

8. Crl. M.C. 3056 of 2006 seeks the quashing of Complaint Case No. 621/1 of 2005 titled *J.M. Bhasin v. Ravi Gupta* in respect of a cheque No. 386092 dated 30th December 2004 for a sum of Rs.5 lakhs. This complaint again is signed by the complainant but filed through the POA holder Shri R.C. Tiwari. A copy of the POA has also been placed on record. The cheque when presented for payment was returned with the remarks 'account closed'. The learned MM issued summons on 18th March 2005 to the Petitioner for

the offence under Section 138 NI Act. The application for recall of the summoning order was dismissed by an order 3rd February 2006 by the learned MM.

9. Barring Complaint Case No. 460/1 of 2005 which has been filed by Shri R.C. Tewari in his individual capacity and not as POA, the ground on which the quashing of the other complaint cases is sought is that they have been filed by the complainant through a POA holder, i.e. Shri R.C. Tiwari and therefore not maintainable as such. It is further submitted that the same person cannot possibly be a POA holder of individuals, firms and companies. As regards Complaint Case No.460/1 filed by Shri R.C.Tewari himself, it is submitted that he is not a bonafide holder of the cheque since he is also the POA holder of the payees who are the complainants in the other cases. It is contended that in the circumstances, the filing of the complaints by Shri R.C.Tewari either by himself or as a POA holder of the other payees is an abuse of the process of law. Reliance is placed upon the judgment of the Supreme Court in *Jimmy Jahangir Madan v. Bolly Cariyappa Hindley (2004)12 SCC 549*. On the other hand, learned counsel for the complainant places reliance on the judgment of the Supreme Court in *Vishwa Mitter v. O.P. Poddar AIR 1984 SC 5* and the judgment of the Division Bench of the Andhra Pradesh High Court in *S.P. Sampathy v. Manju Gupta 2002 Crl LJ 2621*.

10. The point for consideration in these petitions is whether a complaint under Section 138 NI Act can be filed by the complainant through a POA holder. The petitioner relies on the decision of the Supreme Court in *Jimmy*

Jahangir Madan. There, two complaints had been filed by the complainant Bolly Cariyappa Hindley against the appellant Jimmy Jahangir Madan under Section 138 NI Act. Cognizance was taken by the learned MM and the accused was summoned. During the trial the complainant died leaving behind a son and a daughter both of whom were staying in the U.S.A. Accordingly, both the legal heirs executed a general POA each in favour of John Curtis and Annie Cariappa respectively. The POA holders filed applications under Section 302 CrPC in the trial court for permission to continue the complaint. Despite opposition by the accused, the permission was granted to the POA holders by the learned MM. This order was affirmed by the High Court of Karnataka. Thereafter the accused appealed to the Supreme Court.

11. After discussing its decision in *T.C. Mathai v. District & Sessions Judge (1999) 3 SCC 614* where it had considered Section 205 CrPC, the Supreme Court in *Jimmy Jahangir Madan* explained the law thus (SCC, p. 515):

“9. The language of Sections 205 and 302 of the Code is similar. Under Section 302 of the Code, a party can make an application himself to continue the prosecution or the same can be made by a pleader. As provided under Section 2(q) of the Code, the prayer to continue the prosecution can be made either by a legally qualified person, who is authorised to practice in the Court under the Advocates Act; or by any other person which would obviously include a power of attorney holder in which eventuality such permission can be granted by the Court where the prosecution is pending only if it is sought by the person who is entitled to continue the prosecution and not by the power of attorney holder. Under Section 205 of the Code, an accused is required to appear in person but his personal appearance can be dispensed with and he can be allowed to be represented by a pleader. Likewise, **under Section 302 of the Code, a person, who is entitled to continue the prosecution, is required to**

make an application himself but under both the provisions aforesaid, instead of taking steps personally, a party can be represented through a pleader. Power of attorney holder can represent the concerned party under both the provisions of the Code, in case permission for such representation is sought from the Court by the concerned person and granted by it. But where no such permission is sought by the concerned person, meaning thereby, in the case of Section 205 of the Code-an accused and in the case of Section 302 of the Code-a party who has right to continue the prosecution, power of attorney holder cannot be allowed to represent the concerned person in the proceeding.” (emphasis supplied)

12. On the facts of the case in *Jimmy Jahangir Madan*, the Court found that “neither heirs of the complainant filed petition under Section 302 CrPC to continue the prosecution nor was any permission sought by them from the competent court that they should be allowed to continue the prosecution through their power-of-attorney holders, rather the prayer was made by the power-of-attorney holders which is not permissible in law.” However, liberty was given “to the heirs either to make application themselves before the court concerned to continue the prosecution or apply to the court to grant permission to them to authorise the power-of-attorney holders to continue the prosecution on their behalf.”

13. The Supreme Court in *Jimmy Jahangir Madan* therefore did not hold that a complaint under Section 138 NI Act cannot be filed through a POA. It only explained that the complainants have either themselves apply to the court for permission to continue the complaint or seek permission to continue it through their POA holders. It must be noticed that in *Jimmy Jahangir Madan* the complaint had originally been signed and filed by the complainant herself. The legal heirs stepped into her shoes midway and

appointed POAs to continue to prosecute the complaint on their behalf. Applying this decision to a situation where the payee of a cheque appoints a POA to act on his or her behalf even at the time of filing the complaint, then it must be seen whether the complaint has been signed by the payee and whether in the complaint itself or in an application accompanying it, permission has been sought by the complainant to file the complaint through the POA holder. This is because of the requirement in *Jimmy Jahangir Madan* that the complainant or the legal heirs of the complainant as the case may be must apply to the court for permission to pursue the complaint through a POA.

14. At this stage a reference may be made to the decision in *M.M.T.C v. Medchl Chemicals and Pharma (P) Ltd. (2002) 1 SCC 234* where the Supreme Court explained in the context of a complaint filed on behalf of a company that “the only eligibility criteria prescribed by Section 142 is that the complaint must be by the payee or the holder in due course. This criteria is satisfied as the complaint is in the name and on behalf of the appellant Company”. Further it was observed “even presuming, that initially there was no authority, still the company can, at any stage, rectify that defect. At a subsequent stage the company can send a person who is competent to represent the company.”

15. Before proceeding to discuss the factual position in each of these cases it is necessary to consider some of the judgments of the High Courts on the point. In *Ruby Leather Exports v. K. Venu III 1994 (1) Crimes 820*, a Division Bench of the Madras High Court answered the question whether the POA of a payee could file a complaint under Section 142 NI Act as

under (*Crimes* pp. 831-832):

“...a Power of Attorney Agent of the payee or the holder in due course of the cheque, will be competent to make a complaint in writing under Section 142 (a) of the NI Act, to facilitate valid cognizance being taken by the Magistrate. It makes no difference, if the Power of Attorney is executed by one individual in favour of another or executed by a company in favour of a particular person.”

16. Later, another Division Bench of the Madras High Court in *K. Gopalakrishnan v. Karunakaran* 2006 Cri LJ 4365 reaffirmed its earlier view in *Ruby Leather Exports v. V.K.Venu* 1994 (1) Law Weekly (Cri) 34 to hold that a complaint can be filed under Section 138 NI Act read with 142 thereof even by a POA holder of the complainant. The Madras High Court referred to the judgment of the Supreme Court in *Ravulu Subba Rao v. Commissioner of Income Tax, Madras* AIR 1956 SC 604 on the scope and ambit of Section 2 of the Powers of Attorney Act, 1882. The Madras High Court explained the position in law as in paras 9 and 10 which read as under:

“9. The first issue before us is, whether the complaint under Section 138 of Negotiable Instruments Act when presented by the Power of Attorney can be signed by him on behalf of the complainant? Every person has a right to appoint an agent for any purpose except in cases where the act to be performed is personal in character or is annexed to a public office or an act involving fiduciary obligation. Apart from the above mentioned exceptions, the law is clear that whatever a person can do for himself, he can do it through an agent. In common law, when a person authorizes another to sign for him, the signature of the person so signing is to be treated as if the person authorizing signed the same. Unless the statute otherwise provides, an application or petition signed by the person authorised would be in order and valid. The above ratio is laid down in *Ravulu Subba Rao and Ors. V. Commissioner of Income Tax, Madras*. The following conclusion of their Lordships in paragraph 15 is relevant.
15. Then, there is the contention of the appellant that the Rules in question are repugnant to Section 2, Powers of Attorney Act, 7 of 1882, and are therefore ultra vires.

In addition to the reasons given above in support of the conclusion that the rule of the common law was not intended to operate in the field occupied by Section 26-A, there is a further and a more compelling reason why this contention should not be accepted. It is that there is, in fact, no conflict between the two statutory provisions. To understand the scope of Section 2, Powers –of-Attorney Act, it is necessary to refer to the history of this legislation. Under the common law of England, an agent having authority to execute an instrument must sign in the name of the principal if he is to be bound. If the agent signs the deed in his name albeit as agent, he is the person who is regarded as party to the document and not the principal. It is the agent alone that can enforce the deed, and it is he that will be liable on it. Vide in re International Contract Co. (1871) 6 Ch A 525 (k); Schack v. Antony (1813) 1 M & S 573: 105 e R 214 (1), Halsbury's Laws of England, Edn. 3, Vol 1, p. 217, and Bowstead on Agency, Edn. 10, p. 93. To remove the hardships resulting from this state of the law, the Conveyancing and Law of Property Act, 1881 (44 and 45, Vict. Chap. 41) enacted Section 46, which is as follows:

(1) The donee of a power of attorney may, if he thinks fit, execute or do any assurance, instrument, or thing in and with his own name and signature and his own seal, where sealing is required, by the authority of the donor of the power; and every assurance, instrument, and thing so executed and done shall be as effectual in law, to all intents, as if it had been executed or done by the donee of the power in the name and with the signature and seal of the donor thereof.

(2) This section applies to powers of attorney created by instruments executed either before or after the commencement of this Act.

The Indian Legislature immediately followed suit, and enacted the Powers-of –Attorney Act 7 of 1882 incorporating in Section 2 therein for word, Section 46 of the English Act. The object of this section is to effectuate instruments executed by an agent but not in accordance with the rule of the common law and the enactment is more procedural than substantive. It does not confer on a person a right to act through agents. It presupposes that the agent has the authority to act on behalf of the principal, and protects acts done by him in exercise of that authority, but in his own name.

10. Section 2 of Powers of Attorney Act, 1882 makes it clear that Power of Attorney can execute or do any

instrument or thing in and with his own name and signature, and his own seal, where sealing is required by the authority of the Donor of the power, and every instrument and thing so executed and done, shall be effectual in law as if it had been executed or done by the donee of the power. The scope of the above section has been explained in the above referred decision. From the careful reading of the above provision of the Act as well as the observation of the Hon'ble Supreme Court, it can safely be concluded that a complaint signed by the Power of Attorney in his name, though not on behalf of the complainant, is maintainable and valid in law. Therefore, the Power of Attorney has the authority to act on behalf of the principal and the acts done by him in exercise of that authority are protected even if done in his own name. In the light of the above principle, the complaint even if not signed by the power of attorney on behalf of the complainant but signed in his own name is maintainable and not bad in law, because it is more procedural than substantive.”

The Madras High Court has further examined the question whether, in the vent of the complaint being filed through a POA, the complainant should nevertheless be present at the stage of recording of evidence. The Court explained as under:

“14. Coming to the third issue referred to the Bench, viz., whether the sworn statement of the complainant is also required to be recorded on a future date on his appearance in the Court to enable the Court to exercise its discretion under Sections 202 and 203 of the Code of Criminal Procedure, as pointed out earlier, Sections 200 to 204 of the Code of Criminal Procedure prescribes the procedure to be followed while taking cognizance of the offence. A person who physically presents the complaint is deemed to be the complainant. Once the person presents the complaint to the Court, the Magistrate examines the complainant upon oath, reduced to writing the substance of such examination and shall be signed by the complainant and thereupon the Magistrate proceeds further. **The person who presents the complaint may either by the complainant himself or his Power of Attorney holder. Therefore, the examination of the Power of Attorney holder upon oath at the time of presentation of the complaint and reduced to writing the substance of such examination of the Power of Attorney holder shall be sufficient compliance of the procedure contemplated under the Code. We are of**

the view that the actual complainant is also to be examined on oath on his appearance on a future date before the Magistrate is unwarranted and unnecessary. If the examination of the complainant on oath at a future date to enable the Magistrate to exercise his discretion under Section 202 or 203 of the Code is necessary, then, as rightly pointed out by the learned senior counsel, there will be no need or necessity for the Power of Attorney to file the complaint on behalf of the principal. By requiring the complainant also to be examined upon oath on a future date would only be an additional burden to the Magistrates and therefore, is not warranted. That upon, examination of the Power of Attorney under Section 200 CrPC, the Magistrate first proceeds with the issue of summons under Section 204 CrPC and thereafter calls upon the original complainant to be examined upon oath would amount to going back to the square one and therefore is impermissible. Such examination of the complainant on a future date to enable the Court to exercise its discretion would run counter to the scheme of the Code which has not provided for review and prohibits interference at interlocutory stages. This is evident from the decision of the apex court in the case of *Adalat Prasad v. Rooplal Jindal*.

15. Once the Power of Attorney agent makes the complaint, for all practical purposes, it is for the payee or holder in due course of the cheque and the Power of Attorney agent steps into the shoes of the payee or holder in due course of the cheque. Further, as held by the Supreme Court in *Ravulu Subba Rao's* case with regard to the scope of Section 2 of the Powers of Attorney Act, whatever the person can do himself, he can do through an agent and when a person authorizes another to sign for him, the signature of the person so signing is the signature of the person authorizing it. In the light of the above discussion, we are of the view that it **is not required to record the sworn affidavit of the complainant also on a future date to enable the Court to exercise its discretion.**” (emphasis supplied)

17. The Gujarat High Court in *Anil G.Shah v. J. Chittranjan Co. 1998 (2) ALD (Cri) 71*, and the Kerala High Court in *Hamsa v. Inbrahim (1997) 88 CC 800 (Ker)* have taken the same view. The Division Bench of the Andhra Pradesh High Court in *S.P. Sampathy v. Manju Gupta* (supra) explained that where a complaint has not been signed by the complainant but by a

POA holder, it cannot be entertained. In other words, as long as the complaint is signed by the complainant it can be filed through a POA holder, it can be filed under Section 138 read with 142 NI Act. Moreover, in those cases there was no pleading to the effect that it was being filed through POA holder. The decision of the Division Bench of the Andhra Pradesh High Court was again considered by a Full Bench of that Court in ***K. Ramachandra Rao. v. State of Andhra Pradesh 2005 (2) ALT 607***. While reaffirming the decision of the Division Bench in ***S.P. Sampathy***, the Full Bench referred to the provision of Section 183 of the Contract Act, 1973 and the decision of the Supreme Court in ***Ram Chandra v. State of Bihar AIR 1967 SC 349*** and held (para 16):

“(since) the right accrued to the payee or the holder in due course of a dishonoured cheque does not fall within the three exceptions to the rule *Qui facit per alium, facit per se* recognized by Section 183 of the Contract Act i.e. since the act to be performed (i) is not personal in its character, or (ii) is not annexed to any public office, and (iii) does not involve any fiduciary obligations, we hold that the power of attorney of a payee or a holder in due course of a dishonoured cheque can file a complaint for an offence under Section 138 of the Act after obtaining permission from the Court, either before or after filing of the complaint.”

18. It requires to be noticed that while arriving the above conclusion, the Full Bench of the Andhra Pradesh High Court considered the definition of ‘payee’ under Section 7 NI Act ‘holder in due course’ as defined in Section 9 NI Act, Section 2 of the Powers of Attorney Act, 1882 and the definition of ‘complaint’ under Section 2(d) CrPC read with Sections 190 and 200 thereof. The Court also noticed Sections 145 and 146 NI Act as they stood amended by the Negotiable Instruments (Amendment and Miscellaneous

Provisions) Act, 2002. Still the Full Bench did not refer to the decision of the Supreme Court in *Jimmy Jahangir Madan* where it was held that the complainant (or the legal heir of the complainant) has to seek the permission of the court for filing the complaint through a POA and that without such permission the complainant cannot be allowed to proceed.

19. Recently this Court in *Taruna Batra v. Shikha Batra 147 (2008) DLT 257* after discussing the decisions of the Madras High Court in *Ruby Leather Exports* and of the Andhra Pradesh High Court in *Swastic Coaters Pvt. Ltd. v. Deepak Brothers 1997 Cri L.J. 1942* held as under (para 17):

“This Court is inclined to follow the dicta of the above two High Courts. It is accordingly held that a complaint under Section 142 (a) NI Act could be validly filed through a power of attorney holder of the complainant. It is further held that the cognizance of the offence on such complaint can be validly taken by the learned MM only if the document constituting the power of attorney executed by the complainant is presented along with the complaint. Otherwise the order taking cognizance and issuing summons would be invalid. The learned MM before whom a complaint filed under Section 142 (a) NI Act through a power of attorney is presented should, before taking cognizance and issuing summons, satisfy himself that such a power of attorney exists, and that it is a valid document executed in accordance with law. For instance, the Magistrate, if presented with a certified copy of the power of attorney, should also require the production of its original and satisfy himself about its genuineness before proceeding to issue summons. This will be the minimum safeguard for permitting criminal complaints under the NI Act to be filed under Section 142 (a) NI Act through a power-of-attorney for an offence Section 138 thereof.”

20. The legal position emanating from the above decisions can be

summarized as follows:

- (i) A complaint under Section 138 NI Act can be filed by a complainant through a POA.
- (ii) However, the complainant will have to seek the permission of the court concerned for pursuing the complaint through a POA.
- (iii) The leave of the court to file the complaint through a POA can be sought by making an averment in the body of the complaint or by filing a separate application for that purpose along with the complaint.
- (iv) The complaint filed through a POA has to be accompanied by a copy of the deed of special or general POA executed by the complainant. Where the complainant is a company this requirement can be satisfied even after the filing of the complaint.
- (v) The examination of the POA holder upon oath at the time of presentation of the complaint and reduction into writing the substance of such examination shall be sufficient compliance with of procedure contemplated under the CrPC. It is unnecessary thereafter for the complainant to also be examined on oath on his appearance on a future date.

21. Turning to the present cases, barring Complaint Case No. 460/1 of 2005 which has been signed and filed by the complainant Shri R.C. Tewari himself, in each of the other cases the complaint has been signed by the complainant and in the body of the complaint in a separate paragraph a reference has been made to the fact that the complainant has authorised Shri

R.C. Tewari to file and prosecute the complaint. With each of the complaints filed through the POA, a copy of the POA executed by the complainant in favour of Shri R.C.Tewari is enclosed. The learned MM has, after examining the complaint and the annexures as aforementioned, taken cognisance and issued summons. Therefore, the learned MM has permitted the complaint to be filed thorough a POA. The decision of the learned MM in these cases taking cognizance and issuing summons is, therefore, consistent with the law explained in *Jimmy Jahangir Madan* and the various decisions of the High Courts including this Court as referred to hereinabove.

22. There appears to be no legal bar to the same person being a POA holder of individuals as well as firms and companies at the same time. No such law or decision has been shown to this Court by the petitioner. For the above reasons, the objections raised by the Petitioner to the filing of the complaints through a POA holder and consequently the objection raised to the maintainability of Complaint Case No. 460/1 of 2005 filed by Shri R.C.Tewari himself is negatived. No other ground has been urged in these petitions.

23.The petitions are accordingly dismissed with no order as to costs. The pending applications are also disposed of. A copy of this order will be sent by the Registry to the learned MM before whom the aforementioned complaints are pending within five days from today.

S. MURALIDHAR, J.

MARCH 27, 2008
dn