

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-25135 of 2012 (O&M)

Date of decision : May 12, 2015

Jasvir Singh @ Raja and Another
... Petitioners

vs.

Jagbir Singh and Another
... Respondents

CRM-M-25136 of 2012 (O&M)

Jasvir Singh @ Raja and Another
... Petitioners

vs.

Jagbir Singh and Another
... Respondents

CRM-M-25138 of 2012 (O&M)

Jasvir Singh @ Raja and Another
... Petitioners

vs.

Jagbir Singh and Another
... Respondents

CRM-M-25139 of 2012 (O&M)

Jasvir Singh @ Raja and Another
... Petitioners

vs.

Jagbir Singh and Another
... Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sumeet Mahajan, Sr. Advocate with
Mr. Amit Kohar, Advocate
for the petitioners.

Mr. R.S. Bains, Advocate
for respondent No.1.

Mr. Raman Mohinder, Advocate
for respondent No.2.

Surinder Gupta, J

This order shall dispose of four connected CRM-M-25135, 15136, 25138 and 25139 of 2012 as similar question of law and facts arises in these petitions. However, for convenience, facts are being taken up from CRM-M-25135 of 2012.

Jagbir Singh-respondent No.1 filed a complaint under Section 138 of the Negotiable Instruments Act in which, vide summoning order dated 2.3.2010 (Annexure P/5), accused No.1, 3 and 4 as mentioned in the complaint i.e. The Hoshiarpur Express Transport Company Limited, Rajinder Singh General Manager and Acchar Singh Saroya Director, were ordered to be summoned. The Court specifically observed that no prima facie case was made out against petitioner Jasvir Singh @ Raja and Gurmej Singh-respondent No.5.

The only short point which is being discussed for disposal of these petitions is as to who will represent The Hoshiarpur Express Transport Company Limited.

Learned counsel for petitioner submits that the Hoshiarpur Express Transport Company Limited was sued through its Managing Director as such petitioner Jasvir Singh @ Raja being Managing Director was served with notice under Section 251 Cr.P.C. and had to appear on each and every date before the trial court.

The Hoshiarpur Express Transport Company Limited is a body corporate. Section 305 (2) Cr.P.C. provides about representation of body corporate summoned as an accused as under :-

“305. Procedure when corporation or registered society is an accused : - (1) xx xx xx

(2) Where a corporation is the accused person or one of the accused persons in an inquiry or trial, it may appoint a representative for the purpose of the inquiry or trial and such appointment need not be under the seal of the corporation.

(3) to (6) xx xx xx”

In view of the above provisions the Hoshiarpur Express Transport Company Limited may appoint a representative to appear before the trial court under intimation to the trial court as to who will represent the

company and the petitioner Jasvir Singh @ Raja is not required to appear in person and represent the company merely because the company has been sued through its Managing Director. The notice of accusation served upon the petitioner Jasvir Singh @ Raja will be construed as notice served upon the company and the plea to the notice by Jasvir Singh will be taken as plea by the authorized representative. However, information shall be furnished to court about appointment of authorized representative under Section 305 (2) Cr.P.C. The information on being furnished will be kept on record and the trial court will proceed accordingly with the trial from its present stage.

Learned counsel for petitioner further submits that the other pleas challenging the complaint taken on behalf of the Hoshiarpur Express Transport Company Limited be kept alive to be raised at an appropriate time before the trial court.

These petitions are disposed of in the above terms with the liberty aforesaid.

As the complaints are quite old, the court will expedite the proceedings and dispose of the complaints preferably within a period of six months from the date of receipt of certified copy of the order.

(Surinder Gupta)
Judge

May 12, 2015
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