

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-25137 of 2012 (O&M)

Date of decision : May 12, 2015

Jasvir Singhj @ Raja and Another

... Petitioners

vs.

Suraj Parkash Sharma 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. Hitesh Sood, Advocate
for respondent No.1.

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

Surinder Gupta, J

Respondent Suraj Parkash filed a complaint against The Hoshiarpur Express Transport Company Limited through its Managing Director Jasvir Singh @ Raja and Rajinder Singh-respondent No.2, under Section 138 of Negotiable Instruments Act. Both the accused were ordered to be summoned vide order dated 22.5.2010.

The notice of accusation was served by Chief Judicial Magistrate, Hoshiarpur on 18.10.2011. While serving notice of accusation, it was not served upon Hoshiarpur Express Transport Company Limited but on Jasvir Singh alias Raja, Managing Director in his personal capacity, despite the fact that he was neither arrayed as accused nor there is any averment qua him in the complaint. The notice of accusation, as such, is bad on this score and is liable to be set aside.

Without going into details of the averments made in the petition, the same is disposed of on a very short ground with reference to Section 305 Cr.P.C. which provide as to who will represent the company which has been summoned as an accused.

Section 305 (2) Cr.P.C. reads as follows :-

“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”

As per above provisions, the company may appoint any authorised representative to appear on behalf of company. In this case also Hoshiarpur Express Transport Company may appoint an authorised representative and give intimation to the court to this effect and the court will proceed accordingly.

The parties are now directed to appear before the trial court on the date already fixed. The court will issue fresh notice of accusation and proceed in accordance with law.

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 appropriate forum.

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

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

(Surinder Gupta)
Judge

May 12, 2015
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