

222

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

CRM-M-24889 of 2014

Date of Decision: September 08, 2015

Pawan Kumar Ruia

.....Petitioner

Vs.

Escort Limited

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Jainainder Saini, Advocate
for the petitioner.

Mr. Abhilaksh Grover, Advocate
for the respondent.

SABINA, J.

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of complaint No.919 dated 26.04.2012 titled as "Escorts Limited versus Jessop & Co. Limited and others" under Section 138/142 of the Negotiable Instruments Act, 1881 ('Act' for short) read with Section 420 of Indian Penal Code, 1860 ('IPC' for short).

Learned counsel for the petitioner has submitted that the complaint (Annexure P-4) has been filed by the respondent under Section 138 of the Act read with Section 142 and 420 IPC qua dishonor of cheques dated 04.08.2011 and 31.08.2011. The cheques in question were signed by accused Mahesh Chand Gupta on behalf of Jessop and

Company Limited. Petitioner had resigned from the Company in the year 2008. In this regard, learned counsel has placed reliance on Annexure P-1, letter of resignation submitted by the petitioner to the Company and Annexure P-2 Form-32 and Annexure P-3 Form-20B filled under the provisions of the Companies Act, 1956.

Learned counsel for the respondent, on the other hand has opposed the petition and has submitted that the petitioner could take up all the pleas available to him before the trial Court. However, the genuineness of the Annexures P-2 and P-3 has not been denied.

Learned counsel has placed reliance on **State of Haryana vs. Bhajan Lal, 1992 Supp(1) Supreme Court Cases 335**, wherein, the Apex Court has held as under:-

“The following categories of cases can be stated by way of illustration wherein the extraordinary power under Article 226 or the inherent powers under Section 482, Cr.P.C. Can be exercised by the High Court either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:-

- (1) Where the allegations made in the first information report or the complainant/respondent No.2, even if they are

taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a Police Officer without an order of Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where

there is specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceedings is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.
8. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

In the present case, respondent has filed complaint (Annexure P-4) under Section 138 of the Act read with Section 142 and 420 IPC qua dishonor of cheques 04.08.2011 and 31.08.2011. Admittedly, the cheques in question have been issued by accused Mahesh Chand Gupta on behalf of Jessop and Company Limited. A perusal of Annexure P-1 reveals that the petitioner had submitted his resignation from the Board of Directors of the Company on 29.01.2008. Annexure P-2 is the copy of the Form 32 submitted by the Company. A perusal of the same reveals

that the petitioner had resigned from the Company w.e.f. 29.01.2008. Annexure P-3 is the copy of the Form 20B submitted by the Company. A perusal of the same reveals that the name of the petitioner has been mentioned in the details of the Directors who had ceased to be associated with the Company w.e.f. 05.03.2008. Thus, the petitioner had ceased to be Director of the Company in the year 2008. However, the cheques in question were issued by the Company in August, 2011. Petitioner cannot be held responsible for the business of the Company after he had resigned from the same.

In the facts and circumstances of the present case, continuation of criminal proceedings against the petitioner would be nothing but an abuse of process of law.

Accordingly, this petition is allowed. Criminal complaint No.919 dated 26.04.2012 titled as "Escorts Limited versus Jessop & Co. Limited and others" under Section 138/142 of the Act read with Section 420 IPC, is quashed.

**(SABINA)
JUDGE**

September 08, 2015
mahavir