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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-32754-2015

Date of Decision : Sept. 24th, 2015

Parmod Rani

.... Petitioner

Versus

M/s Arora Iron and Steel Rolling Mills Pvt. Ltd

.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present Mr. Manish Jain, Advocate,
for the petitioner.

SHEKHER DHAWAN, J.

Present petition under Section 482 of Code of Criminal Procedure for quashing of Criminal Complaint No. 52510 of 2013 titled **Arora Iron and Steel Rolling Mills Pvt. Ltd. Vs. Swati Cast & Forge Private Limited and others** [Annexure P/1] under Section 138 of the Negotiable Instruments Act, 1881 [for short, "the Act"] read with Section 420 IPC, has been filed by Parmod Rani, petitioner herein, mainly on the ground that the present petitioner was summoned to face trial on the basis of summoning order dated 29.08.2013 [Annexure P/2].

2. Learned counsel for the petitioner submitted that cheque for a sum of Rs.9,05,817/- was issued on 13.4.2013 and was returned as dishonoured on 10.7.2013. Though, she was earlier member of Board of Directors of M/s Swati Cast & Forge Private Limited [for short, "the Company"], but she resigned as Director of the said Company on 1.4.2013. Her resignation was accepted vide resolution of the Board of the Company

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on 1.4.2013 itself and requisite intimation was sent on Form No. 32 [Annexure P/6] to the Registrar of Companies. So, the present petitioner was not looking after the affairs of the Company either in the capacity of Director or any other capacity and she is thus, not responsible for the acts of the Company. The cheque in question was issued by the Company and the same was not signed by the petitioner. Hence, the complaint and the summoning order be quashed.

3. In support of his plea, learned counsel for the petitioner placed reliance upon judgment of Hon'ble Supreme Court in case **Harshendra Kumar D. Vs. Rebatilata Koley etc., 2011(3) SCC 351**, wherein Hon'ble Supreme Court of India has observed that if a cheque issued by a company and plea taken that one of the Directors had resigned before the date of issuance of cheque and his resignation was duly accepted and notified, such person cannot be made accountable and the liability cannot be fastened upon him. On the same point, reliance placed upon judgment from Hon'ble Supreme Court in case **National Small Industries Corp. Ltd. Vs. Harmeet Singh Paintal and another, 2010(2) JT 161**.

4. Having considered the submissions made by learned counsel for the petitioner and taking into consideration the aforesaid facts that the petitioner had resigned from the Board of Directors of the Company on 1.4.2013; her resignation was duly accepted in the Board meeting on 1.4.2013 itself, and required information was sent on Form 32 [Annexure P/6] to the Registrar, the petitioner ceased to be Director of Company on 1.4.2013. More so, she is not the signatory to the cheque. The alleged cheque is dated 13.04.2013 and was returned dishonoured on 10.7.2013. Thus, on the date of issuance of cheque, the petitioner was not the Director

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of the Company. More so, she was not the signatory to the cheque in question. Hence, as per law laid down by Hon'ble Supreme Court in **Gurmala Sales Private Ltd. Vs. Anu Mehta and others; Harshendra Kumar D. Vs. Rebatilata Koley etc. and National Small Industries Corp. Ltd. Vs. Harmeet Singh Paintal and another**, cases (supra), the present complaint was not maintainable qua present petitioner. Learned trial Magistrate has completely ignored this fact while passing the summoning order, Annexure P/2.

5. In view of the above, the present petition is allowed and the Criminal Complaint No. 52510 of 2013 titled **Arora Iron and Steel Rolling Mills Pvt. Ltd. Vs. Swati Cast & Forge Private Limited and others** [Annexure P/1] and the summoning order dated 24.08.2013 [Annexure P/2] and all subsequent proceedings arising therefrom are quashed qua the present petitioner only.

(SHEKHER DHAWAN)
JUDGE

Sept. 24th, 2015
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