

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

(1) CRM-M No.42222 of 2013 (O&M)

Aju's Mines & Minerals, Victor Palace and another

..... Petitioners

Versus

M/s JSC Ispat Private Limited

..... Respondent

(2) CRM-M No.42257 of 2013 (O&M)

Aju's Mines & Minerals, Victor Palace and another

..... Petitioners

Versus

M/s JSC Ispat Private Limited

..... Respondent

(3) CRM-M No.42385 of 2013 (O&M)

Aju's Mines & Minerals, Victor Palace and another

..... Petitioners

Versus

M/s JSC Ispat Private Limited

..... Respondent

Date of Decision: 30.11.2015

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Rajesh Lamba, Advocate for the petitioners/accused.

Mr. Kunal Dawar, Advocate for the applicant/respondent/complainant.

JASWANT SINGH, J. (Oral)

This order shall dispose of aforesaid three petitions since common questions of law and facts are involved between common parties.

The Proprietorship Firm along with the Proprietor have filed the present petitions under Section 482 Cr.P.C. seeking quashing of the Criminal Complaint Nos.875, 879 and 877 dated 18.03.2013 (**Annexure P-1**) respectively, filed by the respondent / M/s. JSC Ispat Private Limited (hereinafter referred to as the 'Complainant Company') under Sections 138 and 142 of the Negotiable Instruments Act (hereinafter referred to as the 'N.I. Act'); further challenge is to the summoning order dated 10.04.2013 (**Annexure P-2**) respectively, passed by the learned Judicial Magistrate 1st Class, Faridabad and all subsequent proceedings arising therefrom.

Three dishonored cheques bearing Nos.176485 dated 09.02.2013 for an amount of Rs.25 Lacs, 176484 dated 08.02.2013 for an amount of Rs.20 Lacs and 176486 dated 11.02.2013 for an amount of Rs.25 Lacs are involved in the present complaints. Legal notices dated 26.02.2013 respectively issued by the Complainant Company was served on the accused Firm on 12.03.2013 and the aforesaid three complaints were filed on 18.03.2013 i.e. before the expiry of 15 days stipulated notice period.

It is conceded by learned Counsel for the parties that this Court had stayed further proceedings in the light of conflicting judgments on the issue of filing complaints before expiry of 15 days after notice and to await the judgment of a larger Bench of the Hon'ble Supreme Court before whom a reference had been made for resolving the conflicting opinions.

The petitions were admitted with liberty to the parties to get the same revived after the decision of the Hon'ble Supreme Court in the reference made in the case of **“Yogendra Pratap Singh Vs. Savitri Pandey and another”, 2012(2) RCR (CrI.) 578**. Subsequently, applications have been moved by the

respondent/complainant seeking revival of the case and disposal of the present petitions in view of the decision rendered in the said case.

Upon notice of the applications, learned Counsel for the non-applicants/petitioners/accused has put in appearance.

Learned Counsel for the parties are agreed that Three Judges' Bench of the Hon'ble Supreme Court has now finally decided the issue in **Yogendra Pratap Singh's case (supra)** wherein it has been held that the cause of action to the complainant does not accrue before the expiry of 15 days stipulated period after notice.

From the facts of the present cases, it is apparent that no cause of action to the respondent/complainant had occurred since concededly the complaints were initiated on 18.03.2013 before the expiry of 15 days notice period. It is further agreed that in such like complaints, which are already pending before the Courts, the Hon'ble Supreme Court has permitted the complainant parties to file a fresh complaint within one month of the dates of the decision of the criminal case and in that event, the delay in filing the complaint will be treated as having been condoned under the proviso to clause (b) of Section 142 of the N.I. Act.

This direction is further concededly applicable to the present cases.

In the light of the aforesaid factual matrix, learned Counsel for the parties are agreed that the present petitions may be disposed of in terms of the directions passed by Hon'ble Supreme Court in **Yogendra Pratap Singh's case (supra)**.

Accordingly, the present petitions are allowed. The aforesaid Criminal Complaints (**Annexure P-1**) are hereby quashed and summoning orders

dated 10.04.2013 (**Annexure P-2**) are set aside, however, liberty is granted to the Complainant Company to initiate fresh complaints within 30 days from the date of receipt of the certified copy of this order and in that eventuality, the delay in filing such complaints shall be treated as condoned under the proviso to clause (b) of Section 142 of the N.I. Act.

Disposed of in the above terms.

November 30, 2015

Gagan

(JASWANT SINGH)
JUDGE