IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CRM-M-No 7574 of 2014 (O&M)

Sanjeev Bindra .... Petitioner

Versus

Nahar Industrial Enterprises Ltd. .... Respondent

2. CRM-M-No 7576 of 2014 (O&M)

A. Indusekhar Rao .... Petitioner

Versus

Nahar International Enterprises Ltd. .... Respondent

3. CRM-M-No 7578 of 2014 (O&M)

Rakesh Agarwal .... Petitioner

Versus

Nahar International Enterprises Ltd. .... Respondent

4. CRM-M-No 7579 of 2014 (O&M)

Sanjeev Bindra .... Petitioner

Versus

Nahar International Enterprises Ltd. .... Respondent

5. CRM-M-No 7580 of 2014 (O&M)

Rakesh Agarwal .... Petitioner

Versus

Nahar International Enterprises Ltd. .... Respondent

6. CRM-M-No 7581 of 2014 (O&M)

Sanjeev Bidnra .... Petitioner

Versus

Nahar International Enterprises Ltd. .... Respondent

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7. CRM-M-No 7582 of 2014 (O&M)

A. Indusekhar Rao .... Petitioner

Versus

Nahar International Enterprises Ltd. .... Respondent

8. CRM-M-No 7583 of 2014 (O&M)

Rakesh Agarwal .... Petitioner

Versus

Nahar International Enterprises Ltd. .... Respondent

9. CRM-M-No 7584 of 2014 (O&M)

A. Indusekhar Rao .... Petitioner

Versus

Nahar International Enterprises Ltd. .... Respondent

Date of decision : 23.02.2015

CORAM : HON'BLE MS.JUSTICE RITU BAHRI

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1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest? Yes

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Present : Mr. Arun Gupta, Advocate
for the petitioner (s)

Mr. Aalok Jagga, Advocate with
Mr. Karanyog Singh, Advocate
for the respondent (s).

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<u>RITU BAHRI, J.</u>

This order shall dispose of the above nine petitions wherein prayer is for quashing of Criminal Complaint No.54663 of 2013 dated 06.11.2013 and summoning order dated 06.11.2013, Criminal Complaint No. 54664 of 2013 dated

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06.11.2013, Criminal Complaint No.54662 of 2013 dated 06.11.2013 and summoning order dated 06.11.2013 passed by learned Civil Judge (Jr. Divn.) cum JMIC Ludhiana.

In CRM-M-7574, 7579 and 7581 filed by Sanjeev Bindra, brief facts of the petition are that the petitioner was appointed as a non-executive director of International Hometex Ltd on 27.02.2001. The petitioner was only a non-executive director in the company completely independent from the promoter group of the company and thus was not responsible or in-charge of the conduct of the business of the company. A photocopy of the 17th Annual Report of the Company for the year 2006-07 representing the petitioner as a non-executive director is Annexure P-3. Further, the petitioner-Sanjeev Bindra had already resigned from the directorship as well as other affairs of the Company much prior to the date of alleged issuance of the disputed cheques in question, the detail of the cheques reads as under:-

CHEQUE NO.	***DATE***	***AMOUNT***
297264	14/08/2013	10,00,000/-
297265	16/08/2013	10,00,000/-
297266	16/08/2013	10,00,000/-
297268	17/08/2013	9,82,375/-
297267	17/08/2013	10,00,000/-

The petitioner had tendered his resignation as a director of the company on 25.08.2009 (P-4)and the same was duly accepted by the Company vide its resolution dated 25.08.2009 passed in the meeting of its Board of Directors (P-5). A certificate to this effect was also issued by the Company certifying that pursuant to the above resignation, the petitioner

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was no more concerned with day to day affairs/working of the company (P-6). In compliance of the statutory provisions under the Companies Act, 1956, the necessary Form 32 confirming the resignation of the petitioner/non-association of the petitioner with the Company w.e.f 25.08.2009 was also filed with the Registrar of Companies (P-7).

In CRM-M-7578, 7580 and 7583 filed by Rakesh Agarwal, brief facts are that the petitioner was appointed as a non-executive director of International Hometex Ltd on 29.09.2003. The petitioner was only a non-executive director in the company completely independent from the promoter group of the company and thus was not responsible or in-charge of the conduct of the business of the company. A photocopy of the 17th Annual Report of the Company for the year 2006-07 representing the petitioner as a non-executive director is Annexure P-3. Further, the petitioner-Rakesh Agarwal had already resigned from the directorship as well as other affairs of the Company much prior to the date of alleged issuance of the disputed cheques in question, the detail of the cheques reads as under:-

CHEQUE NO.	***DATE***	***AMOUNT***
297264	14/08/2013	10,00,000/-
297265	16/08/2013	10,00,000/-
297266	16/08/2013	10,00,000/-
297268	17/08/2013	9,82,375/-
297267	17/08/2013	10,00,000/-

The petitioner had tendered his resignation as a director of the company on 25.08.2009 (P-4) and the same was duly accepted by the Company vide its resolution dated 25.08.2009 passed in the meeting of its Board of Directors (P-5).

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A certificate to this effect was also issued by the Company certifying that pursuant to the above resignation, the petitioner was no more concerned with day to day affairs/working of the company (P-6). In compliance of the statutory provisions under the Companies Act, 1956, the necessary Form 32 confirming the resignation of the petitioner/non-association of the petitioner with the Company w.e.f 25.08.2009 was also filed with the Registrar of Companies (P-7).

In CRM-M-7576, 7582 and 7584 filed by A. Indusekhar Rao, brief facts are that the petitioner was appointed as a non-executive director of International Hometex Ltd on 04.08.1992. The petitioner was only a non-executive director in the company completely independent from the promoter group of the company and thus was not responsible or in-charge of the conduct of the business of the company. A photocopy of the 17th Annual Report of the Company for the year 2006-07 representing the petitioner as a non-executive director is Annexure P-3. Further, the petitioner-A. Indusekhar Rao had already resigned from the directorship as well as other affairs of the Company much prior to the date of alleged issuance of the disputed cheques in question, the detail of the cheques reads as under:-

CHEQUE NO.	***DATE***	***AMOUNT***
297264	14/08/2013	10,00,000/-
297265	16/08/2013	10,00,000/-
297266	16/08/2013	10,00,000/-
297268	17/08/2013	9,82,375/-
297267	17/08/2013	10,00,000/-

The petitioner had tendered his resignation as a director of the company on 25.08.2009 (P-4) and the same was

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duly accepted by the Company vide its resolution dated 25.08.2009 passed in the meeting of its Board of Directors (P-5). A certificate to this effect was also issued by the Company certifying that pursuant to the above resignation, the petitioner was no more concerned with day to day affairs/working of the company (P-6). In compliance of the statutory provisions under the Companies Act, 1956, the necessary Form 32 confirming the resignation of the petitioner/non-association of the petitioner with the Company w.e.f 25.08.2009 was also filed with the Registrar of Companies (P-7).

The petitioners were served with the summons of the above said criminal complaints on 06.11.2013.

Learned counsel for the petitioners are seeking quashing of the above complaints dated 06.11.2013 as well as summoning orders dated 06.11.2013 on the ground that before cheques were issued on 14, 16 & 17.08.2013, the petitioners who were directors of International Hometex Ltd have tendered their resignation on 25.08.2009 before the issuance of the cheques and the resignations were duly accepted by the Company vide its resolution dated 25.08.2009 passed in the meeting of its Board of Directors (P-5) and a certificates to this effect were also issued by the Company certifying that pursuant to the above resignations, the petitioners were no more concerned with day to day affairs/working of the company (P-6). The Form 32 confirming the resignation of the petitioners/non-association of the petitioners with the Company w.e.f 25.08.2009 was also filed with the Registrar of Companies (P-7). Thus, after acceptance of their

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resignation on 25.08.2009, no offence under Sections 138/141 of Negotiable Instruments Act is made out against the petitioners.

Similar issue came up for consideration before this Court in a case of Naveen Kumar Aggarwal v. M/s Dove Creation Pvt. Ltd., passed in CRM-M-No 36249 of 2013, decided on 13.11.2014 wherein the Directors have resigned from their post of Director before issuance of the cheques and thus, they were held not responsible and the criminal complaints pending against them, were quashed by this Court. SLP filed against the above said judgment was dismissed by Hon'ble the Supreme Court vide SLP (Crl) No. 10150/2014 on 05.01.2015.

In the present case as well, the petitioner have resigned from the Post of Directors on 25.08.2009 (P-4) and the same was duly accepted by the Company vide its resolution dated 25.08.2009 passed in the meeting of its Board of Directors (P-5). A certificate to this effect was also issued by the Company certifying that pursuant to the above resignation, the petitioner was no more concerned with day to day affairs/working of the company (P-6). In compliance of the statutory provisions under the Companies Act, 1956, the necessary Form 32 confirming the resignation of the petitioner/non-association of the petitioner with the Company w.e.f 25.08.2009 was also filed with the Registrar of Companies (P-7).

Applying the ratio of the above said judgment passed by this Court on 13.11.2014, the present petitions are allowed

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and Criminal Complaint No.54663 of 2013 dated 06.11.2013 and summoning order dated 06.11.2013, Criminal Complaint No. 54664 of 2013 dated 06.11.2013, Criminal Complaint No.54662 of 2013 dated 06.11.2013 and summoning order dated 06.11.2013 passed by learned Civil Judge (Jr. Divn.) cum JMIC Ludhiana are hereby quashed.

(RITU BAHRI)
JUDGE

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