

In the High Court of Punjab and Haryana at Chandigarh

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(1) Criminal Misc. No.M-11580 of 2013 (O&M)

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Date of decision:15.2.2016

Deepak Uppal

.....Petitioner

v.

Vardhman Rolling Shutter Industries

.....Respondent

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(2) Criminal Misc. No.M-11581 of 2013 (O&M)

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Deepak Uppal

.....Petitioner

v.

Vardhman Rolling Shutter Industries

.....Respondent

....

(3) Criminal Misc. No.M-16686 of 2013 (O&M)

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Deepak Uppal

.....Petitioner

v.

Vardhman Rolling Shutter Industries

.....Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Ritesh Khatri, Advocate for the petitioner.

Mr. Rajesh Bansal, Advocate for the respondent.

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Inderjit Singh, J.

This order will dispose of the above mentioned three criminal miscellaneous petitions filed under Section 482 Cr.P.C. for quashing of complaint cases titled as “Vardhman Rolling Shutter Industries Verus Deepak Uppal” at No.5239 of 2011 dated 19.12.2011, No.5186 of 2011 dated 8.12.2011 and No.22 of 2012 dated 9.1.2012 respectively filed under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as ‘the NI Act’), pending before the Court of learned Judicial Magistrate Ist Class, Panipat and the entire proceedings arising therefrom, as in these cases same point arises for determination. The only point in the present cases is whether the complaint is maintainable against the Managing Director only without impleading the Company as in all these three complaints the Company M/s Martand Engineers Private Limited, Gurgaon, has not been impleaded as party and only Deepak Uppal-present petitioner as Managing Director has been impleaded as accused.

Notice of motion was issued in these cases.

Mr. Rajesh Bansal, learned Advocate has appeared on behalf of the respondent and contested these petitions.

I have heard learned counsel for the parties and have gone through the record.

Learned counsel for the petitioner placed reliance on the judgment of the Hon'ble Supreme Court in Aneeta Hada v. M/s Godfather Travels and Tours Pvt. Ltd., (2012) 5 Supreme Court Cases 661, which is a three Judges Bench judgment, in which it has been held as under:

“Applying the doctrine of strict construction, we are of the

considered opinion that commission of offence by the company is an express condition precedent to attract the vicarious liability of others. Thus, the words “as well as the company” appearing in the Section make it absolutely unmistakably clear that when the company can be prosecuted, then only the persons mentioned in the other categories could be vicariously liable for the offence subject to the averments in the petition and proof thereof. One cannot be oblivious of the fact that the company is a juristic person and it has its own respectability. If a finding is recorded against it, it would create a concavity in its reputation. There can be situations when the corporate reputation is affected when a director is indicted.

In view of our aforesaid analysis, we arrive at the irresistible conclusion that for maintaining the prosecution under Section 141 of the Act, arraigning of a company as an accused is imperative. The other categories of offenders can only be brought in the dragnet on the touchstone of vicarious liability as the same has been stipulated in the provision itself. We say so on the basis of the ratio laid down in ***C.V. Parekh*** (supra) which is a three-Judge Bench decision. Thus, the view expressed in ***Sheoratan Agarwal*** (supra) does not correctly lay down the law and, accordingly, is hereby overruled. The decision in ***Anil Hada*** (supra) is overruled with the qualifier as stated in paragraph 51. The decision in ***Modi Distillery*** (supra)

has to be treated to be restricted to its own facts as has been explained by us hereinabove.”

On the other hand, learned counsel for the respondent has not placed reliance on any law laid down by the Hon'ble Supreme Court.

In view of the law laid down in Aneeta Hada v. Godfather Travels and Tours Private Limited (supra), by three-Judges Bench of the Hon'ble Supreme Court, no complaint can be filed for the commission of offence by the Company without impleading the Company. Therefore, in view of the law laid down above, all these petitions are allowed and complaint cases titled as “Vardhman Rolling Shutter Industries Verus Deepak Uppal” at No.5239 of 2011 dated 19.12.2011, No.5186 of 2011 dated 8.12.2011 and No.22 of 2012 dated 9.1.2012 respectively filed under Section 138 of the NI Act, pending before the Court of learned Judicial Magistrate Ist Class, Panipat and the entire proceedings arising therefrom are hereby quashed.

February 15, 2016.

(Inderjit Singh)
Judge

hsp