IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) CRM No.M-9173 of 2016 (O&M)

Syam Prasad Reddy Indukuri

...Petitioner

Versus

Indiabulls Housing Finance Ltd.

...Respondent

(2) CRM No.M-10311 of 2016 (O&M)

Syam Prasad Reddy Indukuri

...Petitioner

Versus

Indiabulls Housing Finance Ltd.

...Respondent

(3) CRM No.M-10312 of 2016 (O&M)

Syam Prasad Reddy Indukuri

...Petitioner

Versus

Indiabulls Housing Finance Ltd.

...Respondent

(4) CRM No.M-10630 of 2016 (O&M)

Syam Prasad Reddy Indukuri

...Petitioner

Versus

Indiabulls Housing Finance Ltd.

...Respondent

(5) CRM No.M-10688 of 2016 (O&M)

Syam Prasad Reddy Indukuri

...Petitioner

Versus

Indiabulls Housing Finance Ltd.

...Respondent

(6) **CRM No.M-10851 of 2016 (O&M)**

Syam Prasad Reddy Indukuri

...Petitioner

Versus

Indiabulls Housing Finance Ltd.

...Respondent

(7) **CRM No.M-13285 of 2016 (O&M)**

Syam Prasad Reddy Indukuri

...Petitioner

Versus

Indiabulls Housing Finance Ltd.

...Respondent

Date of Decision: September 21, 2016

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rakesh Chopra, Advocate
for the petitioner.

Ms.Kiran Bala Jain, Advocate
for the respondent.

****

INDERJIT SINGH, J.

All the above-mentioned cases are taken up together as the point for determination in all the cases is the same.

Petitioner Syam Prasad Reddy Indukuri has filed these petitions under Section 482 Cr.P.C. against Indiabulls Housing Finance Ltd. for quashing of all the complaints, summoning orders passed by learned Judicial Magistrate Ist Class, Gurgaon and all subsequent proceedings arising therefrom.

Notice of motion was issued in all the cases. Learned counsel for the respondent appeared and contested all the petitions.

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

From the record, I find that in all the cases, the petitioner Syam Prasad Reddy Indukuri has placed on record Form DIR-12, to show that he has resigned as Director of the Company on 22.09.2014 and in all these cases, the cheques were issued on behalf of the company after his resignation.

In the petition, CRM No.M-9173 of 2016, the cheques were issued on 01.11.2014, in petition CRM No.M-10311 of 2016, cheques were issued on 01.04.2015 and 01.05.2015, in petition CRM No.M-10312 of 2016, the cheques were issued on 01.10.2014, in petition CRM No.M-10630 of 2016, the cheques were issued on 01.12.2014, in petition CRM No.M-10688 of 2016, the cheques were issued on 01.01.2015, in petition CRM No.M-10851 of 2016, the cheques were issued on 01.07.2015 and in the last petition CRM No.M-13285 of 2016, the cheques were issued on 01.11.2015.

This fact regarding issuance of cheques on these days, has not been contested by learned counsel for the respondent. As per Form DIR-12, the present petitioner resigned from the Directorship of the company on 22.09.2014 and all the cheques in question in all these cases, have been issued after his resignation. Therefore, the offence in all the cases has been committed on behalf of the company after the resignation of the present petitioner as Director of the company. Hence, the cause of action has arisen to the complainant when the present petitioner was not the Director of the company. The mere fact that loan was taken when the petitioner was Director, will not give cause of action to the complainant to sue the present petitioner. The cause of action has arisen when the cheques were issued and were dishonoured or legal notices were issued or payments were not made.

In support of his argument, learned counsel for the petitioner cited judgment passed by the Hon'ble Supreme Court in ***Harshendra Kumar D. vs. Rebatilata Koley etc., 2011 AIR (SC) 1090***, in which a complaint under Section 138 has been filed against company, its managing director and two directors and the plea of one of the Directors that he had resigned on 02.03.2004 and his resignation was duly accepted, was accepted and it is held that a director whose resignation has been accepted by the company and that has been duly notified to the Registrar of companies, cannot be made accountable and fastened with liability for anything done by the company after the acceptance of his resignation. Learned counsel for the petitioner further relied upon the judgment passed by the Hon'ble Supreme Court in ***Mrs.Anita Malhotra vs. Apparel Export Promotion Council and another, 2011(4) RCR (Criminal) 835***. In that case also, the cheques were issued by a company in the year 2004 and it is held that the Director, who had resigned in 1998 and was no more a Director, cannot be prosecuted. I have gone through both the above cited judgments and the same fully apply to the facts of the present case.

In view of the law laid down by the Hon'ble Supreme Court, I find that in all these cases, the petitioner has already resigned as Director of the company before the issuance of the cheques on behalf of the company.

Keeping in view the above discussion, I find merit in all the above-mentioned petitions and the same are allowed. All the complaints, summoning orders and all subsequent proceedings arising therefrom qua the present petitioner in the above-mentioned petitions, are hereby quashed.

September 21, 2016 **(INDERJIT SINGH)**
Vgulati **JUDGE**

Whether speaking/reasoned **Yes**
Whether reportable **Yes**