

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

**CRM-M-13694-2015 (O&M)
Decided on:27.11.2017**

Parmod Rani

.... Petitioner

Versus

M/s. Narain & Company and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

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

Mr. Sandeep Arora, Advocate,
for respondent No.1.

In this petition, the petitioner prays for quashing of the criminal complaint No.486 dated 12.06.2014 under Section 138 of the Negotiable Instruments Act and proceedings arising therefrom, pending before the Court of Ld. JMIC, Ludhiana. He has been arraigned as accused No.3 alongwith others in the said complaint filed under Section 138 of the Negotiable Instruments Act on the allegations that he is a Director in "Swati Cast & Forge Private Limited, Ludhiana". The complaint has arisen out of the alleged dishonouring of cheques issued on behalf of the aforesaid company.

It is the specific case of the petitioner that he is not a Director in the said company after 01.04.2013, and to support his contention, he has also placed on record the relevant Form 32 (Annexure P-6) as downloaded from the website of the Ministry of Company Affairs. The cheques which are the subject matter of the complaint case, Annexure P-5 collectively, were issued on 1st, 3rd, 7th, 9th, 11th 16th, 17th & 21st of April, 2014, i.e., long after the

petitioner had ceased to be a Director in the accused Company. From the copy of the judgment passed by a Coordinate Bench of this Court on 24.09.2015 in CRM-M-32754-2015, it is seen that a similar complaint case on identical allegations as against the petitioner had been quashed with the following observations:-

“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 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.”

The respondents, who are the complainants in the case at hand have not chosen to deny the petitioner's claim of having resigned from the post of Director long before initiation of the complaint proceedings, nor have they placed any affidavit or material on record to contradict him.

Consequently, the petitioner's status of being totally disassociated from the accused company with effect from 01.04.2013 clearly remains unaltered till date, on account of which further proceedings of the complaint (Annexure P-3) against him are certainly not tenable.

In the light of the aforesaid reasons, this petition is allowed and the criminal complaint No.486 dated 12.06.2014 under Section 138 of the Negotiable Instruments Act (Annexure P-3) with all subsequent proceedings against the petitioner, pending in the Court of Ld. JMIC, Ludhiana, is ordered to be quashed forthwith.

(SUDIP AHLUWALIA)
JUDGE

27.11.2017
neeraj

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No