

125 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision-25.04.2017

1. CRM-M-13775-2017

M/S Prestige Trading HUF and others	...Petitioner(s)
Vs.	
M/S G.D.Steel Industries, Jalandhar	...Respondent(s)

2. CRM-M-13781-2017

M/S Prestige Trading and another	...Petitioner(s)
Vs.	
M/S G.D.Steel Industries, Jalandhar	...Respondent(s)

3. CRM-M-13783-2017

M/S Raghav Steels and another	...Petitioner(s)
Vs.	
M/S G.D.Steel Industries, Jalandhar	...Respondent(s)

4. CRM-M-13786-2017

M/S Raghav Steels and another	...Petitioner(s)
Vs.	
M/S G.D.Steel Industries, Jalandhar	...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. R.S.Bajaj, Advocate for the petitioner(s).

JITENDRA CHAUHAN, J.

This judgment shall dispose of aforementioned four petitions filed under Section 482 of the Code of Criminal Procedure for quashing the complaint No.NACT 2030 dated 27.05.2016, (Annexure P-1) titled as “M/s G.D.Steel Industries Vs. M/S Prestige Trading HUF and others” pending adjudication in the Court of Judicial Magistrate First Class, Jalandhar and

summoning order dated 01.08.2016 (Annexure P-2) passed by JMIC Jalandhar whereby the petitioners have been summoned to face trial and order dated 23.01.2017 (Annexure P-5) passed by JMIC Jalandhar whereby, permission was granted to the complainant firm to substitute the name of the firm.

It is contended by learned counsel for the petitioner(s) that the complaint in question was filed by one Ghanshayam Dass in his individual capacity. The said, Ghanshyam Dass has since died, therefore, case cannot be prosecuted through his legal representatives, particularly when even Sanjay Mittal s/o Ghanshyam Dass has not been declared proprietor of the firm. Learned counsel further placed reliance on the judgment passed by Hon'ble the Supreme Court in “Lalit Kumar Sharma and another Vs. State of U.P and another, 2008(3) R.C.R.(Civil) 80 and Anita Mishra Vs. Arun Kumar, 2016 (2) R.C.R.(Criminal) 846 “ to contend that a second cheque issued in terms of a compromise between the parties does not create a new liability.

I have heard learned counsel for the petitioner(s) and have gone through the case file.

From the record, it emerges that the complainant, Ghanshayam Dass had executed a power of attorney in favour of his son and respondent Sanjay Mittal. The preliminary evidence was conducted by respondent-Sanjay Mittal. The complainant, late Ghanshyam Dass had executed a registered Will in favour of his son, Sanjay Mittal, the respondent. The department of Excise relying upon the Will has issued RC in the name of

respondent. In the circumstances, the issue raised by the petitioner(s) that the firm ceased to exist and there is no remedy available to the legal representatives or any other person, is not sustainable.

There is no dispute of law in the authorities cited by the learned counsel for the petitioner, however, the ratio of the law laid down is not applicable to the facts of the present case.

In view of the above, no case for quashing of complaint is made out.

Consequently, all petitions are dismissed.

However, the petitioner(s) are free to clarify the position before the Competent Court.

(JITENDRA CHAUHAN)
JUDGE

April 25, 2017
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No