

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

**CRM-M-18522-2017
Date of decision-23.05.2017**

Anu Gupta

...Petitioner

Vs.

Jindal Buildsys Ltd. and others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Atul Mahajan, Advocate for the petitioner.

JITENDRA CHAUHAN, J.

The present petition has been filed *inter alia* for quashing of complaint in case No.6246 dated 23.12.2015 registered under Section 138 of the Negotiable Instruments Act, 1881 (in short 'the Act') titled as Jindal Buildsys Ltd. Vs. Grid Infracon Pvt Ltd and others which is pending in the Court of Judicial Magistrate First Class, Gurgaon and quashing of order dated 23.12.2015 passed by Judicial Magistrate First Class, Gurgaon whereby the petitioner was summoned to face trial.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and the name of the petitioner has been added with a *mala fide* intention to harass her. He further contends that petitioner has neither issued the cheque in question nor has signed the same.

The brief facts of the case taken from the complaint filed before

JMIC, Gurgaon are that the petitioner was director and authorized signatory of Grid Infracon Pvt. Ltd. and the firm issued cheque bearing No.289759 dated 02.11.2015 amounting to Rs.6,74,862/- in favour of respondent No.1/Complainant which, upon presentation at Allahabad Bank, Gurgaon Branch, was dishonoured with the remarks "Insufficient Funds". Respondent No.1/complainant issued a legal notice within the statutory period of 30 days calling upon the petitioner to make the payment of cheque in question, but inspite of service of the legal notice, payment was not made. Hence the complaint.

In support of his contentions, learned counsel cites judgments passed by Hon'ble the Supreme Court in "Anita Malhotra Vs. Apparel Export Promotion Council & anr.", another judgment passed by Hon'ble Rajasthan High Court in "Ramesh Chandra Baregama Vs. Ramesh Chandra Joshi and a judgment passed by this Court in CRM-M-24666, 25003, 25004 and 25005 of 2010 titled as "Vijay Kumar Sharma and another Vs. Chhida Mal".

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

Section 141 of the Act reads as under:-

(1) If the person committing an offence under section 138 is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any person liable to

punishment if he proves that the offence was committed without his knowledge, or that he had exercised all due diligence to prevent the commission of such offence: ²² [Provided further that where a person is nominated as a Director of a company by virtue of his holding any office or employment in the Central Government or State Government or a financial corporation owned or controlled by the Central Government or the State Government, as the case may be, he shall not be liable for prosecution under this Chapter.]

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.— For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.]

In order to prove liability of the petitioner/accused, the complainant appeared in the witness box as CW-1 and proved on record various documents including legal notice, cheque and memo regarding alleged liability of accused against which the cheque in question was issued. The petitioner has been summoned in view of Section 141 of Negotiable Instruments Act which imposes vicarious liability upon every person who at the time of offence was in charge of conducting the business of the company.

In view of the above, this Court does not find any ground to

quash the impugned complaint or to interfere with the well reasoned order of summoning.

Consequently, the petition stands dismissed.

(JITENDRA CHAUHAN)
JUDGE

May 23, 2017
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No