

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

1. CRM-M No.19806 of 2016 (O&M)

Ashu Pandey and others

... Petitioners

Versus

Jitender Singh

... Respondent

2. CRM-M No.19803 of 2016 (O&M)

Ashu Pandey and others

... Petitioners

Versus

Chet Ram

... Respondent

Date of decision: 24th January, 2017

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Vikas Sagar, Advocate for the petitioners.

FATEH DEEP SINGH, J.

Both these petitions under the garb of Section 482 Cr.P.C. seeking invocation of inherent powers of this Court having been filed by the same set of petitioners who are accused in two complaints bearing No.2090 dated 10.07.2014 titled as "Jitender Singh v. M/s Trinath Reality Pvt. Ltd." (in short, 'the first case') and No.2091 dated 24.07.2014 titled as 'Chet Ram v. M/s Trinath Reality Pvt. Ltd.' (in short, 'the second case') filed by respondents Jatinder Singh and Chet Ram respectively, who both happens to be son and father respectively,

since revolve around the same legal and factual aspect, are being taken up and disposed off together.

The complaints in question were filed under Section 138 of Negotiable Instruments Act, 1881 (in short, 'the Act') on the allegations that petitioners had established a township Company under the name and style of M/s Trinath Reality Pvt. Ltd. (in short, 'the Company') and in which admittedly Ms.Ashu Pandey petitioner No.1 and Prem Parkash petitioner No.3 are Directors, Amit Kumar Pandey petitioner No.2 is CMD whereas petitioner No.4 Himanshu Pandey happens to be the authorized representative of the Company. It was alleged that the Company started a township project at Raj Nagar under the name and style of 'Sai Samridhi' and approached the complainant who invested Rs.25.00 lacs in the first case and Rs.15.00 lacs in the second case but the same could not take off. It was subsequent thereto in acknowledgement of this outstanding amount, petitioners/accused have issued cheque No.035584 dated 28.05.2014 in the first case and cheque No.035581 dated 13.05.2014 in the second case amounting to Rs.10.00 lacs each both drawn on Axis Bank on the assurance of the accused that the same would be honoured. But on due presentation, the same stood dishonoured leading to recourse to legal procedure ending in filing of the complaints whereby the petitioners have been summoned as accused vide orders dated 20.08.2014 in the first case and 24.07.2014 in the second, against

which summoning orders the petitioners filed criminal revisions before learned Sessions Judge, Mewat and which stood declined vide judgments dated 09.05.2016 in each of these petitions. It is against these, the present petitions under Section 482 Cr.P.C. have come up.

After hearing Mr. Vikas Sagar, Advocate representing the petitioner and on perusal of the records. It is writ large on the records of the Court below that by virtue of memorandum of understanding the accused have entered into such an understanding with the complainant side and it cannot by any means be disputed that Amit Pandey happens to be the Chairman-cum-Managing Director, Ms.Ashu Pandey and Prem Parkash Pandey are Directors, whereas Himanshu Pandey is the authorized representative of this Company. The question as to their role in commission of the offence apparently being Directors/CMD of the Company running the affairs of the Company and thus, it is only through means of evidence it can be looked into if they were not responsible for running of the Company when the documents say it otherwise. The two courts below have passed well reasoned orders that it is not a case where the transaction pertains to an individual as is sought to be projected by learned counsel for the petitioner that the cheques have been issued by one of the Directors in his individual capacity and not as representative of the Company, are matters of evidence. Thus, in the totality of these facts and settled position of law that under Section 482 Cr.P.C. Courts are not

supposed to evaluate the evidence and it is only in rare and exceptional cases such recourse needs to be adopted which is totally amiss in the present case. Thus, finding no merit, both the present petitions stand dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

January 24, 2017
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No