

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(i) CRM No.M-221 of 2017 (O&M)

Venkateshwarlu Malapaka and another
...Petitioners

VERSUS

State of Haryana and another
...Respondents

(ii) CRM No.M-250 of 2017 (O&M)

Venkateshwarlu Malapaka and another
...Petitioners

VERSUS

State of Haryana and another
...Respondents

(iii) CRM No.M-551 of 2017 (O&M)

Venkateshwarlu Malapaka and another
...Petitioners

VERSUS

State of Haryana and another
...Respondents

(iv) CRM No.M-552 of 2017 (O&M)

Venkateshwarlu Malapaka and another
...Petitioners

VERSUS

State of Haryana and another
...Respondents

(v) CRM No.M-607 of 2017 (O&M)

Venkateshwarlu Malapaka and another
...Petitioners

VERSUS

State of Haryana and another
...Respondents

(vi)

CRM No.M-619 of 2017 (O&M)

Venkateshwarlu Malapaka and another

...Petitioners

VERSUS

State of Haryana and another

...Respondents

(vii)

CRM No.M-620 of 2017 (O&M)

Venkateshwarlu Malapaka and another

...Petitioners

VERSUS

State of Haryana and another

...Respondents

Date of Decision: December 21, 2017

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vinod S. Bhardwaj, Advocate
for the petitioners.

Mr.B.S.Virk, Deputy Advocate General, Haryana
for the respondent-State.

Mr.R.S.Rai, Senior Advocate with
Mr.V.K.Sachdeva, Advocate
for respondent No.2.

INDERJIT SINGH, J.

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

Petitioners have filed these petitions under Section 482 Cr.P.C. for quashing criminal complaints No.2378 dated 11.08.2015 in (CRM No.M-221 of 2017), 2571 dated 21.08.2015 (in CRM No.M-250 of 2017),

2379 dated 11.08.2015 (in CRM No.M-551 of 2017), 2562 (in CRM No.M-552 of 2017), 2570 (in CRM No.M-607 of 2017), 2563 (in CRM No.619 of 2017) and 2567 (in CRM No.M-620 of 2017) dated 21.08.2015, titled as 'India Bulls Housing Finance Ltd. vs. M/s Deccan Chronicle Holding Limited and others' pending in the Court of learned Judicial Magistrate Ist Class, Gurgaon under Sections 138, 141 and 142 IPC of the Negotiable Instruments Act as well as summoning orders along with consequential proceedings arising therefrom.

From the record, I find that India Bulls Housing Finance Ltd. filed complaints against M/s Deccan Chronicle Holdings Limited and other accused including the present petitioners under Sections 138 to 141 of the Negotiable Instruments Act. It is mainly alleged in the complaints that accused-company issued various cheques, which on presentation for encashment, were returned back dishonoured with the remarks 'account blocked'. Legal notices were issued. When the amount was not paid, then the complaints were filed. On the basis of the documentary evidence, learned JMIC, Gurgaon, summoned all the accused including the petitioners.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petition.

At the time of arguments, learned counsel for the petitioners contended that in the annual report, the petitioners are only shown as Directors (non-executive and independent) and he argued that present petitioners are not liable for the offences committed by the accused-company nor they can be held responsible for day-to-day affairs the

company.

On the other hand, learned counsel for respondent No.2 only argued on one point that all these accused-petitioners have been declared proclaimed offenders, therefore, they cannot file petition for quashing of the criminal complaints when they have been declared proclaimed offenders.

Learned counsel for respondent No.2 cited judgment passed by this Court in **Balbir Singh vs. State of Punjab and another, 2011(3) RCR (Criminal) 234**, in which it is held as under:-

“10. In the present case also a civil suit is pending which the complainant/respondent No.2 in terms of the compromise dated 12.8.2010 (Annexure P1) has agreed to withdraw. Therefore, the matter being civil in nature and also the fact that the matter has been compromised between the petitioner and the complainant in terms of the compromise dated 12.8.2010 (Annexure P1) and the complainant has also agreed to withdraw the civil suit it would be just and expedient to terminate the proceedings by quashing the impugned FIR as the dispute even, if any, has been amicably resolved.

*11. The petitioner, however, was declared a proclaimed offender. In respect of a person who has been declared a proclaimed offender, the FIR is not normally to be quashed. However, in the present case as has already been noticed, the dispute is primarily civil in nature. Therefore, the mere fact that the petitioner was a proclaimed offender is not liable to come in the way to quash the proceedings. Besides, the fact that the parties have compromised the matter would warrant that FIR is quashed so that a quietus is put to the litigation. In **Gurpreet Singh @ Khinder v. State of Punjab, 1995 (2) Recent Criminal Reports 127 (P&H)** two persons had committed the offence and one of them was arrested while the other escaped. The accused who was arrested was acquitted by the learned trial Court. The other accused was absconding and declared a proclaimed offender. He surrendered subsequently. This Court observed that there was no additional evidence available against the second accused and when the evidence was the same, the continuation of proceedings would result in waste of Court's time and an unnecessary expenditure on the state exchequer. Accordingly, the proceedings were quashed against the other accused as well.”*

I have gone through the above-cited law and the same fully

applies to the facts of the present case. But, it has not been contended by

learned counsel for respondent No.2 that non-executive independent Directors are liable under Section 138 of the Negotiable Instruments Act for the offence committed by the company.

In view of the above discussion, I find that only on technical ground that petitioners are proclaimed offenders, these petitioners cannot be dismissed, as on merit, these are to be allowed. Nothing has been argued on merit by learned counsel for respondent No.2.

Therefore, I find that filing of complaints in question against the present petitioners, who have not committed any offence, is nothing but abuse of process of law. Finding merit in all the petitions, the same are allowed.

The criminal complaints No.2378 dated 11.08.2015 in (CRM No.M-221 of 2017), 2571 dated 21.08.2015 (in CRM No.M-250 of 2017), 2379 dated 11.08.2015 (in CRM No.M-551 of 2017), 2562 (in CRM No.M-552 of 2017), 2570 (in CRM No.M-607 of 2017), 2563 (in CRM No.619 of 2017) and 2567 (in CRM No.M-620 of 2017) dated 21.08.2015, titled as 'India Bulls Housing Finance Ltd. vs. M/s Deccan Chronicle Holding Limited and others' pending in the Court of learned JMIC, Gurgaon, along with all subsequent proceedings arising therefrom, are hereby quashed qua present petitioners only.

December 21, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No