

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

**CRM-M No.37142 of 2016
Decided on: 26.10.2017**

Ram Kaur	Versus	Petitioner
M/s. Ajay Steel Rolling Mills		Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sandeep Jain, Advocate for the petitioner.

None for the respondent.

ARVIND SINGH SANGWAN J.

The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') seeking quashing of complaint No.274 dated 29.10.2015 (Annexure P1) and the summoning order dated 18.11.2014 (Annexure P2) passed by the Judicial Magistrate Ist Class, Dera Bassi qua the petitioner.

In pursuance to the notice of motion order, service was effected upon the respondent, however, no one has put in appearance on behalf of the respondent on the last date of hearing, as well as, even today.

Brief facts of the case are that the respondent/complainant – M/s. Ajay Steel Rolling Mills has filed the aforesaid complaint with the allegation that cheque No.741917 dated 16.11.2007 for an amount of Rs.05 lacs was issued by accused No.4 being Director/authorized signatory of accused No.1 – M/s. Shivalik Vihar Private Limited and on presentation of the same, the Bank has dishonoured the cheque vide memo dated 23.01.2008 with the remarks “*signatures of the present signatory is required.*” Thereafter, the complainant served a notice and

filed the present complaint.

The trial Court, after recording the preliminary evidence summoned the accused persons. The petitioner was arrayed as accused No.3 in the complaint. The petitioner has challenged the complaint as well as the summoning order on the ground that even as per the bare reading of the complaint, the petitioner is not a signatory of the cheque and the same was signed by accused No.4 – Harbhajan Singh as Director/authorized signatory of accused No.1 – M/s. Shivalik Vihar Private Limited.

Counsel for the petitioner has submitted that the petitioner has resigned as a Director of the company and Form No.32 was duly submitted and accepted by the board as is evident from the website that the petitioner – Ram Kaur is not associated with accused No.1 w.e.f. 14.08.2006. It is, thus, submitted that on the date when the cheque was allegedly issued or presented before the Bank, the petitioner was not the Director of accused No.1.

Counsel for the petitioner has further relied upon the order passed in *CRM-M No.2161 of 2011* titled as “*Ram Kaur and others vs M/s Ajay Steel Rolling Mills*” decided on 10.01.2013 wherein the petitioner has challenged the proceedings as well as the summoning order in an another criminal complaint No.45 dated 17.03.2008 filed by the respondent/complainant – M/s Ajay Steel Rolling Mills against the same set of accused including the petitioner. The petitioner has taken the similar plea in that case that she was not the authorized signatory of the cheque and was not the Director of the company on the date when the cheque was issued or presented before the Bank. The operative part

of the order dated 10.01.2013 passed by this Court reads as follows:-

“Ram Kaur, her husband Harbhajan Singh and one Manjit Kaur, who have been arrayed as accused No.3 to 5 in criminal complaint bearing no.45 dated 17.03.2008 titled M/s Ajay Steel Rolling Mills vs M/s Shivalik Vihar Sites Private Limited (Annexure P1), instituted by respondent-complaint M/s Ajay Steel Rolling Mills, under Section 138 of the Negotiable Instruments Act, 1881 (in short – the Act), have filed this petition under Section 482 of the Code of Criminal Procedure (in short – Cr.P.C.) for quashing the said criminal complaint (Annexure P1) and summoning order dated 13.03.2009 (Annexure P2) along with all consequential proceedings.

I have heard counsel for the petitioner and perused the case file, whereas none has appeared for the respondent in spite of last opportunity.

Counsel for the petitioners contended that the petitioners had resigned on 14.08.2006 (vide Annexures P3 to P5) from accused no.1 – Company, on whose behalf the cheque in question dated 11.09.2007 was issued by Gulab Singh – accused no.6 in the complaint, as reflected in Form No.32 (Annexures P6 to P8) and consequently, the petitioners being not Directors of the Company in question on the date of the cheque, are not liable to be prosecuted in the impugned criminal complaint. Counsel for the petitioners also referred to unreported judgment dated 17.05.2012 passed in Crl.Misc. No.M-10685 of 2011 titled Harbhajan Singh vs Janak Raj Gupta, wherein three complaints filed by Janak Raj Gupta and others were quashed qua petitioner No.2 Harbhajan Singh on the same ground.

I have carefully considered the aforesaid contentions.

The factual position arrived by the petitioners in their petition supported by affidavit and documents (Annexures P3 to P8), mentioned herein before, remains unrebutted. It is thus apparent that petitioners were not Directors of the Company in question on the date of cheque and had no concern with the deay

to day business of the said Company. Consequently, in view of Section 141 of the Act, the petitioners are not liable to be prosecuted in the impugned criminal complaint. This view finds further support from judgment of this Court in the case of Harbhajan Singh (supra).

Accordingly, the instant petition is allowed. Impugned complaint (Annexure P1) and summoning order (Annexure P2), along with all consequential proceedings, are quashed qua the petitioners only.”

After hearing counsel for the petitioner, I find that the submissions made by the petitioner which are duly supported by an affidavit and documents (Annexures P1 to P5) remains unrebutted and it is already held in the order dated 10.01.2013 that the petitioner was not the Director of M/s. Shivalik Vihar Private Limited on the date of issuance of the cheque and, therefore, she had no concern with the day-to-day business of the said company and as such, she cannot be held liable for prosecution in view of Section 141 of the Negotiable Instruments Act, 1881. Accordingly, the present petition is allowed, the impugned complaint No.274 dated 29.10.2015 (Annexure P1) as well as the summoning order dated 18.11.2014 (Annexue P2) along with all consequential proceedings are quashed *qua* the petitioner.

(ARVIND SINGH SANGWAN)
JUDGE

26.10.2017
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No