

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

**CRM-M-19166-2018
Date of decision: 16.10.2018**

Abhishek Sharma

...Petitioner

Versus

M/s Barinder Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. S. S. Mor, Advocate
for the petitioner.

Mr. D. S. Gurna, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for quashing of the complaint bearing No. COMA/803/2016, dated 10.08.2016 titled as **M/s Barinder Kumar Vs. M/s Gee Ess Industries & others**, registered under Section 138 of the Negotiable Instruments Act, along with all consequential proceedings arising therefrom.

On 04.05.2018, the following order was passed:

“Learned counsel for the petitioner submits that there are two partnership firms with the name of M/s. Gee Ess Industries, one is registered at New Delhi and other is registered at Rajpura. It is further submitted that the petitioner, who is arrayed as accused No.2 is not a partner with the firm M/s. Gee Ess Industries, Village Daoukalan, District Patiala and is, in fact, the partner with the firm M/s Gee Ess industries at New Delhi. Learned counsel for the petitioner has referred to the partnership deed (Annexure P-2), dated 01.04.2008, where three persons, namely, Hardeep Singh, Gurmukh Singh and Malkiat Singh are shown to be partners of the firm at Rajpura. It is, accordingly, submitted by learned counsel for the petitioner that the petitioner arrayed as accused No.2, has no concerned with respondent – accused firm

registered at Rajpura and therefore, the complaint against him is not maintainable. It is further submitted in the complaint, there are no specific allegations against the petitioner though he is signatory of the cheque which was issued by the Delhi firm. Notice of motion for 29.08.2018. In the meantime, the petitioner is directed to appear before the trial Court and the trial Court will release the petitioner on interim bail on his furnishing bail/surety bonds. The trial Court is also directed to adjourn the case beyond the date fixed before this Court.”

Learned counsel for the petitioner, at the very outset, submits that he may be permitted to withdraw the present petition with liberty to the petitioner to move an application for discharge along with all the supporting documents and submits that personal appearance of the petitioner before the trial Court may be exempted permanently during pendency of the trial in view of the judgment of the Hon'ble Supreme Court in ***M/s Meters and Instruments Private Limited and anr. Vs. Kanchan Mehta, 2017 (4) RCR (Crl.) 476.***

After hearing learned counsel for the petitioner, this petition is disposed of, by granting exemption from personal appearance to the petitioner before the trial Court, subject to the following conditions: -

- (i) *he will appear before the trial Court and the trial Court will release his on bail, in case they have not appeared so far;*
- (ii) *he will be represented by a counsel;*
- (iii) *he will not delay/stall the proceedings of the trial Court;*
- (iv) *he will not dispute his identity as accused;*
- (v) *he will have no objection if the prosecution evidence is recorded in his absence but in presence of his counsel;*
- (vi) *he will appear before the trial Court as and when required by the trial Court and any other condition*

which the trial Court may impose.

In case the petitioner files an application for discharge within a period of 15 days from today, the trial Court will decide the same expeditiously in accordance with law, preferably within a period of three months from the date of receipt of certified copy of this order.

Liberty is granted to file a fresh petition, if so required.

Disposed of, accordingly.

October 16, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No