

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

**CRM-M No.12742 of 2016 (O&M)
Decided on: 29.10.2019**

Manjit Kaur

....Petitioner

Versus

M/s Ajay Rolling Mills

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Ashok Giri, Advocate
for the petitioner.

None for the respondent.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for quashing of criminal complaint No.NACT/353/2015 titled as M/s. Ajay Steel Rolling Mills vs M/s. Shivalik Vihar Sites and others, filed under Section 138 of the Negotiable Instruments Act, 1881 (Annexure P-4) and all other subsequent proceedings arising therefrom and for setting-aside the summoning order dated 10.07.2015 (Annexure P-5).

Counsel for the petitioner has submitted that as per the allegations in the complaint, the petitioner is arrayed as accused No.5 and accused No.4 – Harbhajan Singh had issued cheques Nos.748473 dated 28.03.2013 for a sum of Rs.20,00,000/-, No.752945 dated 28.03.2013 for a sum of Rs.10,00,000/-, No.755701 dated 28.03.2013 for a sum of Rs.5,00,000/- and No.749593 dated 28.03.2013 for a sum of Rs.10,00,000/- on behalf of accused No.1 – M/s. Shivalik Vihar Sites Private Limited. It is further submitted that the petitioner was previously the Director of accused No.1 – M/s. Shivalik Vihar Sites

Private Limited, however, she resigned from the company w.e.f. 14.08.2006.

Counsel for the petitioner has relied upon Form No.32 (Annexure P1) to submit that the information in this regard was duly uploaded on the website that the petitioner is no more the Director of the company.

Counsel for the petitioner has further relied upon the order dated 10.01.2013 passed in CRM-M No.2161 of 2011, in which in a similar complaint filed by the respondent/complainant – M/s. Ajay Steel Rolling Mills, with regard to another cheque issued by Harbhajan Singh, the complaint was quashed qua Ram Kaur and the petitioner – Manjit Kaur noticing the fact that they were not the Director of the company on the date when the cheque was presented and therefore, they are not liable to be prosecuted. The operative part of the judgment reads as under:-

*“...Counsel for the petitioners contended that the petitioners had resigned on 14.08.2006 (vide Annexures P-3 to P-5) 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 P-6 to P-8) 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 averred by the petitioners in their petition supported by affidavit and documents (Annexures P-3 to P-8), mentioned herein before, remains un rebutted. 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 day to day business of the said Company. Consequently, in view of Section 141 of the Act, the petitioners are not liable to be prosecution 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 P-1) and summoning order (Annexure P-2), along with all consequential proceedings, are quashed qua petitioners only.”

Counsel for the petitioner has also argued that in another petition filed by Ram Kaur, the proceedings qua her was quashed by this Court vide order dated 26.10.2017 passed in CRM-M No.37142 of 2016.

There is no representation on behalf of the respondent.

After hearing the counsel for the petitioner, I find merit in the present petition. The case of the petitioner is supported by her affidavit and the documents to show that she has resigned from the company as a Director on 14.08.2006 i.e. prior to issuance of the cheques dated 28.03.2013. This fact is already held in the order dated 10.01.2013 that the petitioner was not the Director of M/s. Shivalik Vihar Sites Private Limited and therefore, she has no concern with the day to day business dealings of the company and thus, cannot be held

liable for the prosecution under Section 141 of the Negotiable Instruments Act, 1881.

In view of what has been discussed hereinbefore, this petition is allowed; the summoning order dated 10.07.2015 is set-aside *qua* the petitioner and the criminal complaint No.NACT/353/2015 titled as M/s. Ajay Steel Rolling Mills vs M/s. Shivalik Vihar Sites and others, filed under Section 138 of the Negotiable Instruments Act, 1881 and all other subsequent proceedings arising therefrom are quashed *qua* the petitioner – Manjit Kaur.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

29.10.2019
yakub

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