

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-14075-2015 (O&M)

Date of Decision: 11.01.2019

Prithvi Pal and another

.... Petitioners

Versus

Kiran Gupta

.... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Sandeep Arora, Advocate for the petitioners.

Mr. Prateek Gupta, Advocate for the respondent.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing Criminal Complaint No. NACT 35390 of 2013, titled as 'Kiran Gupta Vs. M/s Rama Krishna Industries', under Section 138 of the Negotiable Instruments Act, 1881 (for short-'the Act') and summoning order dated 14.11.2013 (Annexure P-2) passed by the learned Judicial Magistrate Ist Class, Jalandhar.

Heard.

Learned counsel *inter alia* contends that the petitioners are not the signatory of the cheque in question. Drawing attention of this Court towards complaint (Annexure P-1) filed by the respondent, he urged that respondent herself has shown the accused-firm as a proprietorship firm of whose father of the petitioners is proprietor. The

petitioners have nothing to do with the proprietorship firm owned by their father. Cheque in question issued by father of the petitioners was never within their knowledge.

On the other hand, learned counsel for the respondent refuting the above submissions of learned counsel for the petitioners contends that in para 7 of the petition, the petitioners have admitted to be managers of the accused-firm, but as a paid employee. The petitioners being managers are also liable to be prosecuted being managing the affairs of the proprietorship firm. That apart, they are sons of proprietor of accused-firm. Therefore, it is evident that the cheque in question issued by their father was within their knowledge.

Having given thoughtful consideration to the rival submissions of learned counsel for both the sides, this Court finds the instant petition completely devoid of any merit for the reasons to follow:-

The petitioners themselves have admitted that they were managing the affairs of accused-firm. Therefore, they cannot be permitted to escape from their liabilities under Section 138 of the Act.

Admittedly, the cheque in question was signed by father of the petitioners as proprietor of the accused-firm in which the petitioners being his sons claimed themselves to be managers, but as paid employees. The above plea of the petitioners can only be adjudicated by the trial Court, after appreciation of evidence, so to be led before it, from both the sides. Prima facie, the petitioners being managers are equally responsible with their father for the offence committed by the accused-

firm under Section 138 of the Act.

In view of the discussion made above, the instant petition being meritless is dismissed.

January 11, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No