

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-20949 of 2017 (O&M)

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Date of decision:08.03.2019

Ms. Aparna Berry

...Petitioner

v.

U.V. Enterprises and others

...Respondents

.....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Sandeep Sharma, Advocate for the petitioner.

Mr. Gautam Pathania, Advocate for respondent No.1.

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Inderjit Singh, J.

This criminal miscellaneous petition has been filed under Section 482 Cr.P.C. for quashing of the complaint dated 26.11.2015 (Annexure-P.1) pending in the Court of Judicial Magistrate Ist Class, Gurgaon; summoning order dated 27.03.2014 (Annexure-P.2) and all other consequential proceedings arising therefrom.

Notice of motion was issued in this case.

Mr. Gautam Pathania, learned Advocate has appeared on behalf of respondent No.1 and contested this petition.

I have heard learned counsel for the parties and have gone through the record.

A perusal of the complaint itself shows that Sai Infraprojects-

accused No.2 is a proprietorship firm owned by its Proprietor-Suneel Kumar-accused No.1. Accused No.1-Suneel Kumar is proprietor of accused No.2-Sai Infraprojects, whereas accused No.3-Ms. Aparna Beri is authorized representative/signatory of Sai Infraprojects-accused No.2. The present petitioner-Ms. Aparna Beri (accused No.3) is stated to be authorised representative/signatory of accused No.2. Accused No.2-Sai Infraprojects is a sole proprietorship firm as per averments made in para 1 of the complaint, which fact is also admitted at the time of arguments by the learned counsel for respondent No.1-complainant, therefore, in no way, accused No.2-Sai Infraprojects can be held as a juristic person. Therefore, even if the averments made in the complaint are taken as it is the present petitioner being employee or authorised signatory cannot be held as vicariously liable. Where it is a sole proprietorship concern, only the owner is liable. Therefore, the present petitioner can not be held vicarious liable for the acts committed by the sole proprietorship concern.

Learned counsel for the petitioner also placed reliance on the law laid down by the Hon'ble Supreme Court in Raghu Lakshminarayanan v. M/s Fine Tubes, 2007 (2) R.C.R. (Criminal) 571. I have gone through the law laid down by the Hon'ble Supreme Court in the above mentioned judgment, which fully applies to the facts of this case. Hence, the present petitioner cannot be held liable.

In view of the above, I find merit in the present petition and the same is allowed. The complaint dated 26.11.2015 (Annexure-P.1) pending in the Court of Judicial Magistrate Ist Class, Gurgaon; summoning order dated 27.03.2014 (Annexure-P.2) and all other consequential proceedings

arising therefrom shall stand quashed qua the present petitioner.

March 08, 2019. **(Inderjit Singh)**
Judge

hsp

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