

112 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision-09.07.2019

1. CRM-M-36905-2018 (O&M)

Madan Lal Narula

...Petitioner

Vs.

M/S SPS Processors Pvt. Ltd.

...Respondent

2. CRM-M-21357-2018 (O&M)

Madan Lal Narula

...Petitioner

Vs.

M/S SPS Processors Pvt. Ltd.

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Arun Luthra, Advocate for the petitioner(s).

MANOJ BAJAJ, J. (Oral)

This judgment will dispose off the above mentioned two petitions, both titled as “Madan Lal Narula Vs. M/S SPS Processors Pvt. Ltd.”. However, the facts are being extracted from CRM-M-36905-2018.

Petitioner has filed this petition under Section 482 of Code of Criminal Procedure for quashing of order dated 06.08.2018 (Annexure P-2) passed in complaint No.1225 dated 10.03.2016 registered under Section 138 of Negotiable Instruments Act, 1881, whereby the trial Court proceeded with the trial.

Learned counsel for the petitioner contends that the accused in a complaint case must be tried together. He has invited the attention of the

Court to Section 223 Cr.P.C. to contend that the accused have to be charged jointly. This court is not inclined to accept the argument of the learned counsel as the nature of case in hand pertains to summons case as the complaint in question was filed under Section 138 of Negotiable Instruments Act, 1881, wherein no formal charges have been framed.

Learned counsel placed reliance upon a judgment passed by Hon'ble Delhi High Court, titled as “**Jitendra Narottam Das Mehrotra and others Vs. State and others**” 2004 (2) R.C.R.(Criminal) 176, to contend that this case would be covered by this judgment. In the said case, the trial was against 10 accused and some of them remained unserved. It was held that the trial cannot commence against those who were served, unless the others were declared proclaimed offenders under Sections 82 and 83 Cr.P.C. However, in the present case, the facts are entirely different and the said judgment has no application because all the accused have been served. Even otherwise, he does not dispute the fact that the case is at defence evidence and the prosecution has discharged the onus.

Learned counsel further placed reliance upon another judgment passed by the Hon'ble Supreme Court, titled as “**Kadiri Kunhahammad Vs. The State of Madras**”, AIR 1960 (SC) 661. In the cited case, the Hon'ble Supreme Court had examined the impugned judgment of conviction and dealt with provisions of Section 239(d) Cr.P.C. (old Code), which contemplate joint trial of accused of different offences committed in the course of the same transaction.

Learned counsel further contends that since accused No.1 is a

company which was not being represented, therefore, the trial cannot go ahead. The facts in the present case are entirely different particularly when the accused No.1 (Company) is represented by the Director who is arrayed as an independent accused No.2 as well. Therefore, the argument that the Company is not represented is misplaced. Further, the prayer in this regard made by the petitioner before the trial Court below has already been declined, however the said order has not been challenged.

Learned counsel for the petitioner is unable to point out any prejudice caused to petitioner, therefore, this Court does not find any reason to interfere with the trial proceedings, by invoking inherent powers under section 482 Cr.P.C.

Both petitions are dismissed.

		(MANOJ BAJAJ)	
		JUDGE	
09.07.2019			
vanita	Whether speaking/reasoned :	Yes	No
	Whether Reportable :	Yes	No