

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.22668 of 2019 (O&M)
Decided on: 17.05.2019

Bhavana Rao @ Bhavana Sharma

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Ravish Verma, Advocate for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for quashing of complaint bearing No.11628 of 2017 dated 19.07.2017 filed under Sections 138/141 of the Negotiable Instruments Act, 1881 and all other subsequent proceedings arising therefrom as well as for setting-aside the summoning order dated 29.08.2017 (Annexure P3).

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 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 another vs. Kanchan Mehta”***, 2017 (4) RCR (CrI.) 476.

Learned counsel for the petitioner has also relied upon the judgment ***“M/s Bhaskar Industries Limited vs M/s. Bhiwani Denim & Apparels Limited”***, 2001(4) RCR (Criminal) 137, wherein it has been held by the Hon'ble Supreme Court that in the proceedings under

Section 138 of the Negotiable Instruments Act, the accused can be represented by a counsel even without putting in appearance before the trial Court.

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) *she will be represented by a counsel;*
- (ii) *she will not delay/stall the proceedings of the trial Court;*
- (iii) *she will not dispute her identity as accused;*
- (iv) *she will have no objection if the prosecution evidence is recorded in her absence but in presence of her counsel;*
- (v) *she 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 on merits, expeditiously in accordance with law, preferably within a period of 03 months from the date of receipt of certified copy of this order.

Disposed of, accordingly.

Liberty is granted to the petitioner to file a fresh petition in case an adverse order is passed.

17.05.2019
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No