

Sr.No.202

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

**CRM-M-9617-2016
Date of decision:09.12.2019**

**M/s Hardeep Singh Construction Company
... Petitioner(s)**

versus

**M/s Keshav Motors
... Respondent (s)**

Coram: Hon'ble Mr. Justice Jasgurpreet Singh Puri

Present: Mr. Yash Dev Kaushik, Advocate
for the petitioner.

Mr. Manvir S.Dalal, Advocate
for the respondent.

Jasgurpreet Singh Puri, J.(Oral)

Present petition has been filed under Section 482 Cr.P.C. for quashing of Complaint No.2193 of 2013 dated 26.11.2013, under Section 138 of Negotiable Instrument Act (Annexure P-1) and summoning order dated 26.11.2013 (Annexure (P-2) vide which the petitioner has been summonsed by the learned Trial Court.

Learned counsel for the petitioner contends that the alleged cheque (Annexure P-4) has been issued by one J.P.Concrete company which was arrayed as accused No.1 in the complaint. Accused Nos. 2 to 4 are the partners in the said forum i.e.M/s J.P.Concretes. According to learned counsel for the petitioner so far as accused No.5 i.e. M/s Hardeep Singh Construction Company - petitioner in the present petition is concerned, has nothing to do with the issuance of cheque nor has anything to do with the other co-accused. Therefore, it is prayed that present complaint be quashed qua the present petitioner.

Per contra, learned counsel for the respondent who is representing the complainant i.e. M/s Keshav Motors submits that although accused No.5 i.e. petitioner in the present petition has not issued the cheque, but Mr. Hardeep Singh is husband of accused No.3 - Bhupinder Kaur/ respondent No.3, therefore, the same has been impleaded as party.

After hearing learned counsel for parties, perusal of the memo of complaint itself and copy of cheque, it shows that accused No.5 – the present petitioner i.e. M/s Hardeep Singh Construction Company or it's authorised signatory has not issued the cheque and admittedly the same has been issued by respondent No.1 through authorised signatories Bhupinder Kaur and Jaspreet Singh.

The mere fact that the proprietor of M/s Hardeep Singh Construction Company i.e. the petitioner in the present case is the husband of one of the co-accused, can not fasten any liability upon somebody under Section 138 of the Negotiable Instruments Act and therefore, the petitioner could not have been arrayed as a party in the complaint. This Court while issuing notice of motion on 18.03.2016, had also stayed the proceedings qua the present petitioner-company before the lower Court.

Learned counsel for the parties state that the proceedings have not since been progressed after aforesaid order.

It is admitted position that the petitioner / accused No.5 has no concern with the issuance of cheque and is a separate legal entity. Thus, it would not be in the interest of justice to continue with the proceedings against the said accused which is the petitioner in the present case.

It is also pointed out by the learned counsel for the petitioner that vide separate petition for seeking quashing of the complaint by accused

No.3, namely Bhupinder Kaur has already been dismissed by this Court vide CRM-M-9415-2016.

Consequently, Complaint No.2193 of 2013 dated 26.11.2013, under Section 138 of Negotiable Instrument Act (Annexure P-1) and summoning order dated 26.11.2013 (Annexure (P-2) vide which the petitioner has been summonsed by the learned Trial Court are hereby quashed qua petitioner only.

Learned Trial Court is directed to proceed with the trial of remaining accused and conclude the same as expeditious as possible and in accordance with law.

9th December, 2019
Shivani Kaushik

[JASGURPREET SINGH PURI]
JUDGE

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*