

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.31324 of 2019
Decided on: 24.07.2019

Gurbachan Juneja

....Petitioner

Versus

Ashok Kumar Dubey

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Aditya Dassaur, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for quashing of complaint bearing No.15823 of 2018 dated 10.09.2018, filed under Section 138 of the Negotiable Instruments Act, 1881 including the summoning order dated 12.09.2018 (Annexure P-4) and all other subsequent proceedings arising therefrom.

Learned counsel for the petitioner has further argued that the petitioner has resigned in the year 2002 and was no more a Director, at the time when the cheques were issued or presented or dishonoured by the Bank. Learned counsel for the petitioner relies upon the judgments "*Gunmala Sales Private Limited vs Anu Mehta and others*", 2015(1) RCR (Criminal) 54 and "*National Small Industries Corp. Limited vs Harmeet Singh Paintal and another*", 2010(2) RCR (Criminal) 122, to submit that in such circumstances, the petitioner cannot be held guilty.

Learned counsel for the petitioner further submitted 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.

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) *he will be represented by a counsel;*
- (ii) *he will not delay/stall the proceedings of the trial Court;*
- (iii) *he will not dispute his identity as accused;*
- (iv) *he will have no objection if the prosecution evidence is recorded in his absence but in presence of his counsel;*
- (v) *he 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 file 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 as held by the Hon'ble Supreme Court of India, preferably within a period of 03 months from the date of receipt of certified copy of this order.

It is clarified that till the application of discharge is decided by the trial Court on merits, the trial Court will not proceed on the application filed under Section 143-A of the N.I. Act.

Disposed of, accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

24.07.2019

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Whether speaking/reasoned Yes/No

Whether reportable: Yes/No