

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

104

CRM-M-23759 of 2017

Date of decision:27.9.2019

M/s Desire Clothing and another

... Petitioners

versus

Nahar Industrial Enterprises Limited

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.Jai Bhagwan, Advocate,
for the petitioners
Mr.Alok Jagga, Advocate,
for the respondent
...

AMOL RATTAN SINGH, J. (Oral)

By this petition, the petitioners challenge the order of the learned trial Court dated 12.4.2017 (copy Annexure P-5) by which the application filed by the respondent complainant under Section 311 of the Cr.P.C. has been allowed, thereby allowing the original authorized signatory of the respondent company to be substituted by another authorized signatory, as the person who had originally filed the complaint on behalf of the company as its authorized signatory,had resigned therefrom.

Mr.Jagga, learned counsel for the respondent-complainant, has brought to the notice of this Court an order passed by a coordinate Bench in CRM-M-19668 of 2017 on 6.8.2018, which is seen to be an order passed in a petition concerning the same parties as are the litigants in the present case, that case being one arising out of another complaint, also filed under the provisions of Section 138 of the Negotiable Instruments Act, 1881, qua another cheque stated to have been dishonoured (as per the case of the

complainant).

Naturally, learned counsel for the petitioners could not deny that vide the said order, that petition had been dismissed on 6.8.2018 by this Court (coordinate Bench), relying upon judgments of the Supreme Court in The Associated Cement Company Limited vs. Keshvanand, 1998(1) RCR (Criminal) 309 as well as M/s M.M.T.C. Ltd. vs. Medchl Chemicals and Pharma (P) Limited, 2002(1) RCR (Criminal) 318.

He however draws attention to what is stated in the last lines of that order, which read as under:-

“In view of the above, the petition lacks merit and is accordingly dismissed. It is, however, made clear that the fresh affidavit to be filed in support of the complaint, shall be identical to the one filed earlier and no additions or alterations will be permissible.”

Mr.Jagga submits that in any case the affidavit to be filed by the substituted authorized signatory would be identical to the one filed earlier.

That being so, for the reasons already given in the order passed by this Court (coordinate Bench) in the aforesaid petition, this petition is also dismissed.

However, nothing observed herein above shall, naturally, be taken to be an observation by this Court on the actual merits of the case.

The trial Court would now proceed with the matter expeditiously, the complaint in question having remained pending since the year 2010, though obviously for the past two years the matter remained pending before that Court in view of the interim order passed by this Court

staying the final order from being passed.

Mr.Jagga, learned counsel for the respondent complainant, submits that there are in fact several such complaints pending before that Court, even since the year 2010, in which there is no interim order operating to stay proceedings and consequently, the trial Court may be directed to dispose those of also expeditiously.

Though obviously this is a petition challenging the order of the trial Court in a particular case, however jurisdiction of this Court having been invoked under Section 482 of the Cr.P.C., the trial Court is requested that the other cases pending before it be disposed of within a period of six months from today, unless of course there is any interim order operating in any particular complaint passed by a higher Court.

27.9.2019
pk

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No