

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-64357-2018 (O&M)

Date of decision: 09.01.2019

Parveen Kumar Thakur @ Parveen Singh and another

...Petitioners

Versus

U.T. Chandigarh and another

...Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Ms. G.K. Mann, Advocate
for the petitioners.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for quashing of complaint No.9525 dated 29.07.2017 (Annexure P-2) titled as M/s ST Telecom Solutions Vs. M/s Swastika Tele Solutions Private Limited, filed under Section 138 of the Negotiable Instruments Act and the summoning order dated 31.07.2017 (Annexure P-3) as well as all the subsequent proceedings arising out of the impugned complaint.

Learned counsel for the petitioners relies upon **N. Harihara Krishnan Vs. J. Thomas, 2017 (4) RCR (Criminal) 41**, in which the Hon'ble Supreme Court has held as under: -

“12. (c) Section 138 stipulates inter alia that (i) the payee of the cheque must give a notice in writing to the drawer of the cheque within 30 days from the “receipt of the information by him from

the bank regarding the return of the cheque as unpaid”; (ii) the notice must contain a demand for the payment of the amount due on the cheque; and (iii) upon the receipt of the notice, if the drawer of the cheque fails to make payment within 15 days of the receipt of the notice, prosecution could be launched within one month thereafter. The timelines stipulated under clauses (a) to (c) of the proviso to Section 138 are mandatory.”

Learned counsel for the petitioners submits that she may be permitted to withdraw the present petition with liberty to the petitioners to move an application for discharge along with all the supporting documents and their personal appearance 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 anr. Vs. Kanchan Mehta, 2017 (4) RCR (Crl.) 476.**

After hearing learned counsel for the petitioners, this petition is disposed of, by granting exemption from personal appearance to the petitioners before the trial Court subject to the following conditions: -

- (i) they will appear before the trial Court and the trial Court will release them on bail, in case they have not appeared so far;*
- (ii) they will be represented by a counsel;*
- (iii) they will not delay/stall the proceedings of the trial Court;*
- (iv) they will not dispute their identity as accused;*
- (v) they will have no objection if the prosecution evidence is recorded in their absence but in presence of their counsel;*

(vi) *they 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 petitioners file an application for discharge within a period of 15 days from today, the trial Court will decide the same expeditiously in accordance with law, preferably within a period of three months from the date of receipt of certified copy of this order.

Liberty is granted to the petitioners to file a fresh petition, if so required.

Disposed of, accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

09.01.2019

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Whether speaking/reasoned Yes/No

Whether reportable: Yes/No