

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Order: January 09, 2019

+ **CRL.M.C. 3982/2017 & CRL.M.A. 16054/2017**
+ **CRL.M.C. 4091/2017 & CRL.M.A. 16421/2017**
+ **CRL.M.C. 4200/2017 & CRL.M.As. 16854-55/2017**
+ **CRL.M.C. 4226/2017 & CRL.M.As. 16943-44/2017**

SH SOMENDRA KHOSLA

N SRINIVASA RAO

.....Petitioners

Through: Mr. Vikas Gupta and Mr. Vipin
Kalra, Advocates

Versus

STATE & ANR.

.....Respondents

Through: Mr. M.P. Singh and Mr.
M.S.Oberoi, learned Additional
Public Prosecutors for respondent-
State
Mr. Satinder Singh Mathur,
Advocate for respondent No. 2

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. The above captioned four petitions are directed against criminal complaint titled '*JBB Infrastructure Pvt. Ltd. vs. MIC Electronics Limited and Ors*', filed under Section 138 of Negotiable Instruments Act, 1881, in which petitioners have been summoned as an accused.
2. Quashing of aforesaid complaints and the summoning order of 16th August, 2016 is sought on the ground that petitioners are independent

directors and are not incharge of day to day business of the MIC Electronics Limited.

3. With the consent of learned counsel for the parties, the above captioned four petitions have been heard together and are being disposed of by this common order.

4. Learned counsel for petitioners submits that petitioners are independent directors and are not concerned with day to day business of MIC Electronics Limited and so, they cannot be summoned in the complaints in question. To submit so, reliance is placed upon Supreme Court's decision *Standard Chartered Bank vs. State of Maharashtra & Ors.* (2016) 6 SCC 62.

5. Learned counsel for respondents- Complainant No.2 has drawn attention of this Court to paragraphs no. 26, 31 and 32 of the decision in *Standard Chartered Bank (Supra)* to submit that in the complaints in question, there are allegations against petitioners being responsible for day to day functioning/business of accused- company i.e. *MIC Electronics Limited*.

6. Upon hearing and on perusal of the impugned complaints, summoning order and the decision cited, I find that Supreme Court in *Standard Chartered Bank (Supra)* has permitted summoning of the directors of accused-company, who were incharge of day to day business of the accused-company. Since there are allegations against petitioners of being responsible for day to day functioning of business of accused-company, therefore, in the considered opinion of this Court, no case for quashing complaint and summoning order is made out.

7. At this stage, counsel for petitioners has drawn attention of this Court to power of attorney/authorization given by petitioner- *Somendra Khosla*, which reveals that he was aged 71 years in September, 2017 and is resident of United Kingdom. Attention of this Court is also drawn to the affidavit of petitioner-*N Srinivasa Rao* to point out that he was aged 67 years in September, 2017. It is submitted on their behalf that the petitioners ought to be granted permanent exemption from appearing before the trial court, as they undertake that their counsel will appear before the trial court on each and every date of hearing. Learned counsel for petitioners submits that petitioners shall appear before the trial court if the order framing Notice under Section 251 Cr. P.C is passed and thereafter, as and when required by the trial court.

8. In view of aforesaid, the above captioned four petitions are dismissed while refraining to interfere with the impugned order but petitioners are permitted to appear through their attorney and counsel before the trial court on each and every date of hearing with the exception that petitioners shall appear before trial court when the order framing Notice is to be pronounced. It is made clear that petitioners shall be filing application for permanent exemption before the trial court within four weeks from today alongwith undertaking to the effect that their attorney alongwith counsel would be appearing before the trial court and petitioner shall appear in person before the court if the order framing Notice is pronounced and also when the trial court deems it appropriate to secure their presence. Needless to say, that this order is in peculiarity of this case and will not be treated as a precedent.

9. With aforesaid observations, these petitions and the applications are disposed of.

(SUNIL GAUR)
JUDGE

JANUARY 09, 2019

v

