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

Date of Order: May 28, 2019

\+	CRL.M.C. 4571/2017
\+	CRL.M.C. 4587/2017
\+	CRL.M.C. 4588/2017
\+	CRL.M.C. 4589/2017
\+	CRL.M.C. 4590/2017
\+	CRL.M.C. 2817/2018

BEEJAKSHREE VARMAN ..... Petitioner
Through: Mr.Akshay Singh and Ms.Tosha Singh, Advocates

Versus

M/S WORLDS WINDOW IMPEX INDIA PVT LTD..... Respondent
Through: Mr.A.K. Babbar & Mr. Surinder Kumar, Advocates

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

O R D E R

In the above captioned six petitions, quashing of six complaints under Section 138 of *The Negotiable Instruments Act, 1881* and the summoning orders is sought on the ground that the allegations levelled against petitioner are vague and that petitioner had resigned as Director of the accused-company on 19th July, 2014.

With the consent of learned counsel for the parties, the above captioned petitions have been heard together and are being disposed of by this common order while treating Crl.M.C. 4571/2017 as lead case.

Petitioner’s counsel submitted that no specific allegation has been levelled against petitioner in the complaint under Section 138 of *The Negotiable Instruments Act, 1881* and Form No.DIR-11 has been downloaded from the official website, Ministry of Corporate Affairs and perusal of this form (Annexure P-6) reveals that effective date of petitioner's resignation was 19th July, 2014 and the cheques have been issued in August and September, 2014. Reliance was placed upon Supreme Court's decision in *Pooja Ravinder Devidasani Vs. State of Maharashtra and Ors.Anr.* (2014) 16 SCC 1 to submit that the complainant in such types of complaints is required to show as to how and in what manner a Director of accused- company was responsible for the conduct of the business of the company, which has not been done in the instant cases and so, the impugned complaints and the summoning orders qua petitioner deserve to be set aside.

On the contrary, learned counsel for respondent-complainant had drawn attention of this Court to paragraph No.2 of the complaints in question to point out that petitioner was very much party to the negotiating of price while placing orders for purchase of aluminium foils and that the purported resignation of petitioner was sent by the accused-company to the Registrar of Companies on 18th October, 2014 i.e. after the issuance of cheques in question. It is submitted that the pleas raised by the petitioner herein are required to be tested at trial and so, these petitions deserve dismissal.

The submissions advanced by counsel for the parties have been duly considered and on scrutiny of the complaints in question, summoning orders passed under Section 138 of *The Negotiable*

Instruments Act, 1881 and the decision cited, I find that petitioner is sought to be arrayed as an accused vicariously. It is a matter of record that petitioner had resigned as Director of accused-Company on 19th July, 2014 and as per acknowledgment of resignation *(Annexure P-5 colly)*, petitioner's resignation was duly accepted. There is no basis to conclude that the resignation of petitioner from accused-company was sent to Registrar of Companies on 18th October, 2014 i.e. after issuance of cheques in question. A document dated 4th August, 2018 showing Designated Partner Details of accused-Company issued by Ministry of Corporate Affairs placed on record by respondent's counsel shows that the date of cessation of petitioner from accused-company is 19th July, 2014, whereas cheques in question were issued on 30th August, 2014; 3rd September, 2014 and 5th September, 2014. It is relevant to note that dishonouring of cheques in question is of November/ December, 2014. Even otherwise, petitioner cannot be made vicariously liable because in the complaints in question, no specific allegation have been levelled against petitioner. Supreme Court in *Pooja Ravinder Devidasani (supra)* has reiterated that mere verbatim reproduction of words of Section without a clear statement of fact is not enough to make a person vicariously liable. To make a Director of Company liable for the offence committed by the company under Section 141 of *The Negotiable Instruments Act, 1881*, there has to be a specific averment against a Director, showing as to how and in what manner the Director was responsible for the conduct of business of the company.

Upon considering the case of petitioner in its totality, this Court is of the considered opinion that summoning of petitioner in the complaints in question is wholly unwarranted. Consequentially, impugned complaints under Section 138 of The Negotiable Instruments Act, 1881 and summoning orders qua petitioner are hereby quashed.

These petitions are accordingly disposed of while making it clear that any observation made herein shall have no bearing on merits of the case qua petitioner's co-accused.

(SUNIL GAUR)
JUDGE

MAY 28, 2019
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