

In the High Court of Punjab and Haryana at Chandigarh

**CRM-M No. 31299 of 2017
Date of Decision: 10.5.2022**

Savneet Kaur

.....Petitioner

Versus

Iris Computers Ltd.

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. J.S.Lalli, Advocate
for the petitioner.

Mr. Munish Gupta, Advocate
for the respondent.

SURESHWAR THAKUR, J. (ORAL)

1. Complaint titled as '*Iris Computers Ltd. vs. Ms. Savneet Kaur*', became instituted against the petitioner herein, and, she is arrayed as an accused thereins. However, the learned trial Magistrate, after assuming jurisdiction, and, taking cognizance, upon the complaint (supra), proceeded to make the summoning order upon the petitioner-accused. The above summoning order has been challenged in the instant petition. The gravamen of the challenge, is rooted in the trite factum, that the complaint (supra) has been filed much beyond the prescribed period of limitation for its presentation, before the learned trial Magistrate concerned, as it, inasmuch as, became filed after 496 days, elapsing since its initial presentation before the Courts at Delhi, thereupon, no jurisdictional empowerment was vested in the learned trial Magistrate, to assume cognizance thereons.

2. When the petition came up before this Court on 26.9.2017, this Court had made the hereinafter extracted order:-

staying further proceedings in the criminal complaint pending in the Ld. Trial Court on the grounds stated therein.

In the main case, i.e. CRM-M No. 31299 of 2017, this Court had directed issuance of notice upon the respondent/complainant for 06.10.2017, with the following directions:-

“In the meantime, the Ld. Trial Court can proceed with the trial but shall not pass any final judgment without express instructions in this regard. Further, the petitioner, who is a lady, is granted exemption from personal appearance in the Trial Court on the next date i.e. 30.08.2017 but her absence shall not be a ground for adjournment of proceedings in which her counsel has to participate/cross-examine the witnesses if warranted.”

After hearing Ld. Counsel for the petitioner, the Court finds no tangible grounds to deviate from the aforesaid directions, in absence of the complainant.

Let notice of this application be also served upon the respondent/complainant for the date fixed in the main case, i.e. 06.10.2017.

In the meantime, personal attendance of the petitioner, who is a lady, may be exempted on all dates of trial subject to the condition that her absence itself shall not be a ground for adjournment, as already directed earlier.”

3. The afore ground could have been a valid preliminary submission, for ousting the assumption of jurisdiction, as well as for barring the taking of cognizance, upon the complaint (supra), rather by the learned Magistrate concerned, but the afore ground may have stood good, at the pre-summoning stage, and, may not stand good, subject to the hereinafter made observations, after this Court permitting the opening of trial against the accused in the complaint (supra).

4. Though, the above order was amenable for its being modified on any valid ground, but the learned counsel for the petitioner did not make

an application for the above purpose before this Court. Therefore, the above

made extracted order does, at this stage, constrain this Court to conclude, that except for the hereinafter observations, this Court cannot yet permit the learned trial Magistrate concerned, who has completed the recording of evidence, upon, the complaint (supra), to not pronounce final judgment, on the adduced evidence, as, thereupon this Court would be interfering with the jurisdiction of the learned trial Court, to make a valid pronouncement, with respect to the notice of accusation, put to the accused for an offence punishable under Section 138 of the Act.

5. Consequently, the learned Magistrate concerned, is directed to make a judgment, in accordance with law, upon the complaint (supra). He is also directed to bear in mind the above argument, as made before this Court, qua the erroneous assumption of jurisdiction, and, taking of cognizance, upon the complaint (supra), given the above submission qua it being barred by limitation.

6. The petition is disposed of.

(SURESHWAR THAKUR)
JUDGE

May 10, 2022
Gurpreet

Whether reportable	:	Yes/No
Whether speaking/reasoned	:	Yes/No