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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-19503-2022

Date of decision : 09.05.2022

Knitcrafts Apparels International Private Limited and others

...Petitioners

Versus

Vardhman Yarns and Threads Limited

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sanjiv Pabbi, Advocate for the petitioners.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of complaint bearing NACT/512/2020 dated 14.08.2020 titled Vardhman Yarns and Threads Limited Vs. Knitcrafts Apparels International Private Limited and others under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as “the Act of 1881”) as well as summoning order dated 29.01.2021 (Annexure P-2) and also order dated 23.03.2022 (Annexure P-3) vide which, warrants of arrest have been issued against the petitioners.

Learned counsel for the petitioners has submitted that in the present case, petitioner Nos.2 to 4 are residents of Delhi and petitioner No.1-company is registered in Gurgaon (Haryana) and the complaint dated 14.08.2020 (Annexure P-1) has been filed under Section 138 of the Act of

1881 at Hoshiarpur. It is further submitted that the petitioners were never served, in accordance with law.

Learned counsel for the petitioners has further relied upon the provisions of Section 67 of Cr.P.C. to contend that since the petitioners were residing outside the place of local jurisdiction, summons in duplicate could have been sent to a Magistrate within whose local jurisdiction the petitioners are residing. It is contended that the said procedure has also not been followed. It is further argued that the petitioners are ready to pay the amount of the cheques in question and would appear before the trial Court within a period of three weeks from today and has thus, prayed that the petitioners would limit their prayer in the present petition to setting aside of the order dated 23.03.2022 (Annexure P-3), vide which, warrants of arrest have been issued against the petitioners.

This Court has heard the learned counsel for the petitioners and has perused the paper book.

Petitioner Nos.2 to 4 are stated to be the residents of New Delhi and petitioner No.1 is the company which has been registered in District Gurgaon (Haryana). It is, thus, clear that the petitioners do not reside within the local jurisdiction of Hoshiarpur and it is the Judicial Magistrate Ist Class, Hoshiarpur who had passed the summoning order and had also issued warrants of arrest against the petitioner. Prima facie, it appears that service of the petitioners has not been effected, in accordance with law, inasmuch as the procedure as enshrined under Section 67 of Cr.P.C. has not been followed. The petitioners are ready to pay the amount of the cheques in question and are also ready to appear before the trial Court within a period

of three weeks from today.

Keeping in view the abovesaid facts and circumstances, the present petition is partly allowed and the order dated 23.03.2022 (Annexure P-3), vide which, warrants of arrest have been issued against the petitioners are set aside, subject to the petitioners appearing before the trial Court within a period of three weeks from today and also subject to the petitioners making an offer of payment of the amount of the cheques in question.

In this case, notice has not been issued to the respondent as the purpose of issuance of warrants of arrest against the petitioners was to ensure presence of the petitioners before the trial Court and since the petitioners themselves have stated that they are ready to appear before the trial Court and have even offered to pay the amount of the cheques in question, the issuance of notice to the respondent would unnecessarily delay the proceedings and would thus, not be in the interest of justice and the same would also entail expenses upon the respondent in defending the present petition.

It is, however, clarified that in case, the petitioners do not appear within a period of three weeks from today before the trial Court or do not make the offer of payment of the amount of the cheques in question, within a period of three weeks, then the present petition would be deemed to have been dismissed.

09.05.2022

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No