

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

CRM-M-47858 of 2021(O&M)

Date of Decision: 01.12.2022

M/s Omaxe Ltd.

...Petitioner

Versus

M/s Shree Nath Enterprises

...Respondent

With

CRM-M-48954 of 2021

Omaxe New Chandigarh Developers Pvt. Ltd.

...Petitioner

Versus

M/s Shree Nath Enterprises

...Respondent

And

CRM-M-48960 of 2021

M/s Omaxe Ltd.

...Petitioner

Versus

M/s Shree Nath Enterprises

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Munish Gupta, Advocate
For the petitioner.**

**Mr. Anil Ghanghas, Advocate
For the respondent along with
Mr. D.P. Grover, GPA of respondent.**

KARAMJIT SINGH, J.

This order will dispose of the afore-titled three connected
petitions.

CRM-M 47858 of 2021 has been filed by the petitioner/

accused seeking quashing of complaint No. NACT/1286 of 2020 dated

15.02.2020 (Annexure P-1) titled as M/s Shree Nath Enterprises Vs. M/s Omaxe Residency II & Ors. filed under Section 138 of Negotiable Instruments Act (for brevity, the Act) and summoning order dated 15.02.2020 (Annexure P-2) passed by the learned Judicial Magistrate Ist Class, Faridabad and all the consequential proceedings arising therefrom including order dated 27.10.2021 (Annexure P-8) vide which the application filed by the petitioner for compounding of offence in the aforesaid criminal complaint was dismissed.

CRM-M 48954 of 2021 has been filed by the petitioner/accused seeking quashing of complaint No. NACT/1996 of 2020 dated 18.03.2020 (Annexure P-2) titled as M/s Shree Nath Enterprises Vs. M/s Omaxe Chandigarh Extension Developers Pvt. Ltd. & Ors. filed under Section 138 of Negotiable Instruments Act (for brevity, the Act) and summoning order dated 22.03.2021 (Annexure P-3) passed by the learned Judicial Magistrate Ist Class, Faridabad and all the consequential proceedings arising therefrom including order dated 27.10.2021 (Annexure P-8) vide which the application filed by the petitioner for compounding of offence in the aforesaid criminal complaint was dismissed.

CRM-M 48960 of 2021 has been filed by the petitioner/accused seeking quashing of complaint No. NACT/1995 of 2020 dated 18.03.2020 (Annexure P-1) titled as M/s Shree Nath Enterprises Vs. M/s Omaxe Limited & Ors. filed under Section 138 of Negotiable Instruments Act (for brevity, the Act) and summoning order dated 22.03.2021 (Annexure P-2) passed by the learned Judicial Magistrate Ist Class, Faridabad and all the consequential proceedings arising therefrom including order dated

27.10.2021 (Annexure P-7) vide which the application filed by the petitioner for compounding of offence in the aforesaid criminal complaint was dismissed.

The brief facts of the case are that criminal complaint No. NACT/1286 of 2020 dated 15.02.2020 was filed by the respondent on the ground that three cheques worth Rs.35,00,000/- (fully detailed in the said complaint) were issued by the petitioner in the name of the respondent and on presentation, the said cheques were dishonoured and then statutory notice under Section 138 of the Act was issued but the petitioner failed to make the payment of the amount relating to the said cheques within the stipulated period and then the complaint was filed.

Criminal complaint No. NACT/1996 of 2020 dated 18.03.2020 was filed by the respondent on the ground that cheque worth Rs.2,99,949/- (fully detailed in the said complaint) was issued by the petitioner in the name of the respondent and on presentation, the said cheque was dishonoured and then statutory notice under Section 138 of the Act was issued but the petitioner failed to make the payment of the amount relating to the said cheque within the stipulated period and then the complaint was filed.

Another criminal complaint No. NACT/1995 of 2020 dated 18.03.2020 was filed by the respondent on the ground that three cheques worth Rs.38,43,860/- (fully detailed in the said complaint) were issued by the petitioner in the name of the respondent and on presentation, the said cheques were dishonoured and then statutory notice under Section 138 of the Act was issued but the petitioner failed to make the payment of the amount

relating to the said cheques within the stipulated period and then the complaint was filed.

After recording of preliminary evidence, the trial Court passed summoning orders in the aforesaid three criminal complaints against the petitioner and pursuant to the same, the petitioner appeared before the trial Court and moved applications for compounding of offence but the same were declined by the learned trial Court vide impugned orders on the ground that the respondent was not ready to give his consent with regard to compounding of offence.

Being aggrieved, the present petitions have been filed by the petitioners.

During the pendency of these petitions, there was offer on behalf of the petitioner to compound the offence. Today, the counsel for the petitioner handed over demand drafts worth Rs.83,50,191/- and three different cheques worth Rs.23,22,642/- (in total worth Rs.1,05,72,833/-) and details thereof is taken on record as Annexure A-1. The said demand drafts and cheques are received by Mr. D.P. Grover, General Power of Attorney Holder of the respondent firm. The said general power of attorney holder accepted the aforesaid demand drafts and cheques without any objection and further made statement that the entire disputed amount along with 18% interest on the delayed payments has been received by him on behalf of the respondent and that now the respondent is having no objection if the offence punishable under Section 138 of the Act is compounded in all the three petitions and he is having no objection if these petitions are allowed and the

complaints pending before the trial Court are quashed with liberty to the respondent to revive the same in case cause of action still survives in future.

Admittedly, the impugned criminal complaints were filed by the respondent through its general power of attorney Mr. D.P. Grover. Thus, making it clear that he is fully authorized to compound the offence on behalf of the respondent.

In the light of the above, it stands proved that the matter has been compromised between the parties and as such the parties are permitted to compound the offence punishable under Section 138 of the Act in all the three complaints, which are presently pending before the Court of learned Judicial Magistrate Ist Class, Faridabad. The aforesaid criminal complaints and all the consequential proceedings therein are ordered to be quashed, the offence under Section 138 of the Act having been compounded.

Consequently, all the three petitions are allowed in aforesaid terms. However, the respondent is at liberty to revive the same in case the cheques handed over to its general power of attorney today in Court are dishonoured on their presentation.

01.12.2022
Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No