

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

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CWP-27416-2022

Date of Decision: 01.12.2022

Ritu Saluja

....Petitioner.

Versus

State Bank of India and others

...Respondents.

**CORAM: HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

.....

Present: Mr. Anand Chhibbar, Sr. Advocate with
Mr. Shikhar Sarin, Advocate and
Ms. Shreya B. Sarin, Advocate and
Ms. Khyati Avnish, Advocate for the petitioner.

Mr. Rakesh Gupta, Advocate and
Mr. Rakshit Gupta, Advocate
for respondents No.1, 7 and 9.

Mr. Gaurav Goel, Advocate and
Mr. Tarlok, Advocate
for respondents No.2, 4 to 6, 8 and 10.

M.S. RAMACHANDRA RAO, J. (Oral)

Heard learned counsel for the parties.

Admittedly, the petitioner is a corporate guarantor of the company
M/s SEL Manufacturing Limited which is admitted to resolution by the NCLT
Chandigarh Bench, Chandigarh on 11.04.2018 and a resolution plan approved by
the Committee of Creditors was sanctioned on 10.01.2020 by the NCLT
Chandigarh Bench, Chandigarh.

Thereafter, an application CP(IB) No.244/Chd/Pb/2021 was filed by
respondent No.1, CP(IB) No.21/Chd/Pb/2022 was filed by respondent No.2 and
CP(IB) No.159/Chd/Pb/2021 was filed by respondent No.3 before NCLT
Chandigarh Bench, Chandigarh, under Section 95 of the IPC, with a view to

initiate insolvency resolution process against the petitioner, who is the guarantor of the Corporate Debtor.

It is the contention of the senior counsel appearing for the petitioner that the debt of the above banks has already been settled in the CIRP process and the said banks are not entitled to initiate proceedings under Section 95 of the IPC.

It appears that such a specific plea in this regard and was indeed raised before the NCLT Chandigarh Bench, Chandigarh, by the petitioner, who is respondent in the said application and the NCLT, Chandigarh had permitted an objection to be filed about the maintainability of the said applications by the respective banks.

Having regard to the said facts, granting liberty to the petitioner to file such objections before the NCLT Chandigarh Bench, Chandigarh, on the above aspect by 17.12.2022 and without expressing any opinion on the contentions of the petitioner, this writ petition is disposed of with a direction to NCLT, Chandigarh Bench, Chandigarh, to decide the said objections after hearing both sides before admission of the said applications.

It is open to all parties to raise all contentions open to them in law.

The petitioner is also permitted to take a similar defence in the OA filed by respondent-bank against the petitioner and if such plea about the maintainability of the OA is raised, the DRT, Chandigarh shall decide in accordance with law.

(M.S. RAMACHANDRA RAO)
JUDGE

(SUKHVINDER KAUR)
JUDGE

01.12.2022

Komal

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