IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-5742-2023
Date of Decision : 01.03.2023

Simran Tyagi .... Petitioner

Versus

Ravinder Kumar .... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Yashveer Kharb, Advocate for the petitioner.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of compliant bearing No.NACT-1933-2019 titled as ‘Ravinder Kumar Vs. M/s Jan Chetan Marketing Netwark Pvt. Ltd. And others’ filed under Sections 138/142 of the Negotiable Instruments Act, 1881 (for short 'the N.I. Act') as well as summoning order dated 17.10.2019 passed by the trial Court and all consequential proceedings arising therefrom qua the petitioner.

Brief facts of the case are that the respondent/complainant has filed the above-said complaint against the petitioner and other accused alleging that the accused persons approached the respondent/complainant and convinced him for investing amount in their company M/s Jan Chetan Marketing Network Pvt. Ltd. for a fixed period of 21 months in monthly installments. On which the respondent/complainant has taken 02 schemes and deposited total amount of Rs.92,526/- in their company till 25.05.2018. After completion of installments, the respondent/complainant demanded his maturity amount along with profit and the accused agreed to pay an amount of Rs.1,02,820/- to the respondent/complainant. For discharging their legal liability, the accused handed over 02 cheques amounting to Rs.30,360/- and Rs.72,460/-, respectively, in favour of the respondent/complainant. On presentation of the said cheques, the same were dishonoured by the bank with remarks 'Fund Insufficient”. The respondent/complainant had got served a legal notice dated 03.08.2019 upon the accused persons. However, the accused persons had not paid the money to the respondent/complainant.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. In the complaint, no specific role has been mentioned against the petitioner. There is only vague and general allegations against her. The petitioner is neither the signatory nor partner of the company. It is necessary for the respondent to aver in the impugned complaint that at the time of commission of alleged offence, the petitioner was in-charge of and responsible for the conduct of business of the company. Without this averment being made in the complaint, the requirements of Section 141 cannot be said to be satisfied. In support of his arguments, learned counsel for the petitioners has placed reliance upon the judgments of this Court passed in ***Anil Chanana Vs. M/s Gyani Ram Ruliya Ram : 2019(1) RCR (Criminal) 358***.

I have heard learned counsel for the petitioner and gone thorough the paper-book.

A perusal of the complaint (Annexure P-1), as well as order dated 17.10.2019 (Annexure P-2) passed by the trial Court, shows that prima-facie all ingredients of offence under Section 138 of the N.I. Act are made out, inasmuch as the cheques which were issued by the petitioner and other accused were dishonoured on presentation with the remarks 'Funds Insufficient'. Statutory notice in this regard was also issued to the petitioner and other accused and after expiry of the stipulated period under the Act and upon failure of the petitioner to make the payment of the cheque amount, the complaint has been filed.

In so far as the contentions of learned counsel for the petitioner are concerned, they would at the best raise disputed questions of fact which would be gone into by the trial Court after recording evidence in that regard. Moreover, the summoning order was passed on 17.10.2019 and the petitioner has filed the present petition on 31.01.2023 after a delay of more than 02 years.

In view of above, the present petition stands dismissed.

01.03.2023 **(ASHOK KUMAR VERMA)**
kothiyal **JUDGE**

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No