

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

204

CRA-S-2535-SB-2010

Date of decision : 15.02.2023

Bansi Dhar

.....APPELLANT

VERSUS

Sunita Rani

....Respondent

CORAM:- HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Gulzar Mohd., Advocate,
for the applicant-appellant.

None for the respondent.

SANJAY VASHISTH, J. (ORAL)

1. The present appeal has been filed against the judgment dated 11.06.2008 passed in Criminal Complaint No.57/2 dated 31.01.2005 by the Court of learned Judicial Magistrate 1st Class, Ludhiana, whereby, respondent - Sunita Rani, Director of Happy Shoes Private Limited was acquitted for the alleged offence under Section 138 of the Negotiable Instruments Act; by recording the finding that all the cheques were signed by accused No.2 – Bal Krishan Babeja in his capacity as Director and accused – Sunita Rani (respondent herein) is not a signatory to any of cheques,

Other two accused i.e. Happy Shoes Private Limited and Bal Krishan Babeja were held guilty. Both the convicted were given the benefit of probation under Section 4 (1) of the Probation of Offenders Act, 1958 on entering into personal bond in the sum of Rs.20,000/- with one surety in the like amount.

2. It was held that respondent was house-hold lady and was neither Incharge nor responsible to the affairs of accused No.1 i.e. Happy Shoes Private Limited. Learned counsel has very fairly read out the relevant findings recorded in Para 13 of the impugned judgment, which reads as follows:-

13. *'Now, the last question posed for answer by this court is with regard to liability of accused No.3 who has been made vicariously liable in this case owing to her holding the office as a Director of the accused No.1 company. IN this regard, it is to be noted first that the cheques in question are all signed by accused No.2 Bal Krishan in his capacity as a Director of accused No.1 company and accused next Sunita Baweja is not a signatory to any of such cheques. Accordingly, it has been argued on behalf of the accused that the said accused is a House hold lady and is neither the in-charge nor responsible to the affairs of accused No.1 company and is a Director only in papers. It has been argued that the complainant has failed to prove that accused No.3 had been actively participating in day affairs of the company or was in any manner in-charge of and responsible to the company as against accused No.3 cannot be sustained. On the company for the business of the company as a result of which the complaint as against accused No.3 cannot be sustained. On the other hand, the learned counsel for the complainant has argued that the complaint does contain all the requisite allegations wherein it is specifically mentioned that accused Nos. 2 & 3 in their capacity as Director of accused No.1 had approached the complainant for the purchase of shoe materials. In this way, he has argued the requirement of Under Section 141 of the Act by virtue whereof each and every person in-charge of and responsible to the day to day affairs and business of the company is made vicariously liable for the offence Under Section 138 of the Negotiable Instruments Act,*

stands fully met with. He has argued that similar averments have also been made by the complainant in his statement while appearing as CW1 regarding which he has not been cross-examined and hence these allegations even otherwise are deemed to have been admitted by the accused is a result of which both the accused are liable for the offence committed by the company accused No. 1 in support of these contentions, the learned counsel for the complainant has placed reliance upon a judgment of our own Hon'ble High Court in the case of 'Mrs. Manju Podar and another Versus Ashwani Kumar and others' reported as 1994 (1) Civil Court Cases Page 608 judgment by Hon'ble Supreme Court in the case of 'SMS Pharmaceuticals Limited Versus Neeta Bhalla and another' reported as 2005 (1) RCR (Criminal) Page 141, and yet another judgment by Hon'ble Supreme Court in the case of N.K. Wahi Versus Shekar Singh and Ors.' reported as 2007 (2) Civil Court cases Page 177 to argue that the accused No. 3 being the Director of accused No. 1 company, is liable by virtue of the office held by her and is liable to be punished alongwith the co-accused accused No.2 Bal Krishan'.

3. This Court has also noticed that total four cheques of the disputed amount of two lacs were tendered by the accused during the pendency of trial and said amount had been withdrawn by the complainant.

4. I have gone through the findings recorded by learned trial Court as also the evidence referred to by the counsel for the appellant/complainant.

5. Learned counsel for the appellant/complainant has not pointed out any illegality or perversity in the findings recorded by the trial Court, or that can be said to be against the evidence available on record. Moreover, learned trial Court has rightly recorded the findings regarding acquittal of the respondent herein relying upon the judgments of the Hon'ble Apex Court in

'Saroj Kumar Poddar versus State (NCT of Delhi) and another 2007 (1) RCR (Crl.) Page 741 and 'N.K. Wahi versus Shekar Singh & others' 2007 (2) Civil Court Cases Page 177'. Thus, finding no illegality in the impugned judgment regarding the acquittal of the accused respondent herein, present appeal stands dismissed.

(SANJAY VASHISTH)
JUDGE

15.02.2023
Nisha-I

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