

CRM-M-10816-2022

2023:PHHC:062198

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

269-A

CRM-M-10816-2022
Date of Decision: 01.05.2023

Juhi Chugh Petitioner

Versus

M/s Govind Textile Pvt. Ltd. and others Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Akshay Kumar Jindal, Advocate for the petitioner.
Mr. N.K. Chhokar, Advocate for respondent No.1.

ANOOP CHITKARA, J. (ORAL)

Complaint No.CNRHRPP03-005883-2019 titled as M/s Govind Textiles vs. M/s Vintage Home Fashions NACT-1239 of 2019

1. Aggrieved by the issuance of summons in the complaint captioned above, the accused has come up before this Court under section 482 CrPC for its quashing, submitting that her husband was the signatory of the cheque and was also the sole proprietor of the business, which fact is clear from the banker's certificate; and she had no role in the business of the firm, as such, she cannot be prosecuted for any offence she never committed.
2. When the firm "M/s Vintage Home Fashions" is closed, which according to the petitioner, is a sole proprietorship of accused No. 2 Puneet Chug, who is her husband had some business dealings with the complainant from 'woven textiles private limited 'closed. During the course of the business, certain cheques were handed over to the complainant, including the cheque in question, which bounced, leading to the issuance of notice and subsequently filing of the complaint Annexure P-1. The complainant filed the complaint against all the accused, including the petitioner's husband. Vide order dated July 09, 2019, the trial court summoned all the accused, including the petitioner, Juhi Chugh. Feeling aggrieved by the summoning, she filed the present petition under section 482 Cr.P.C.
3. The complainant-respondent filed their response and stated that the petitioner is an active participant in dealing with the business of handlooms, and she had visited the complainant's office and ordered the articles to be delivered to her. Therefore legal liability is to be discharged by her. It is a matter of evidence whether she is able to discharge her duties under the negotiable instruments act or not. The complainant sought the dismissal of the present petition.
4. The petitioner's stand was unequivocal that she had no role in the affairs of the form in paragraph 7; she had explicitly annexed a certificate from the a bank in which it was clarified that Mr. Puneet Chugh was the sole proprietor of M/s. When page home fashion Panipat and that Mr. Puneet Chugh was the only authorized signatory of the firm and the only person responsible for carrying out all the firm affairs. In response to paragraph No. 7, the petitioner is just stating that it's a matter of record and admitted.

5. *International small-scale industries Corporation Ltd versus Harmeet Singh PAI NTL Pentel 2010 volume 2 RCR criminal 122*, considering the absence of a specific role, the Supreme Court absolved him of the liabilities. Similarly, in *S and S Pharmaceuticals versus Mothanwala 2007 RCR criminal 126*, Supreme Court held that the director's liability must be determined when the offence was committed and merely being a party to the resolution would not be sufficient. In one *Mahla Service Private limited versus Nunera 2015 volume 1 SCC civil 433* Supreme Court took almost a similar view.

6. Before any person can be summoned to face a criminal trial, it is the duty of the magistrate who search for the prime of his evidence, which attributes some role that makes out a penal offence. The order of something can only be mechanical and with considering the role. In the present case, the complainant is silent about the petitioner's role, except that she had gone to the complainant's company to order some stuff. Since the petitioner's husband was the proprietor of the firm, it would not be unusual or him to depute anybody, including his wife, to place orders on behalf of the firm simply because somebody does so would not become an accused when the check issued by the main accused that the sole proprietor bounces. Thus there is no evidence what the name to an act the petitioner with the cheque in question, and the petitioner has no liability for its payment given above; the present petition is allowed the said order of summoning qua the petitioner is quashed and set aside. This day soft the dismissal of the petition

7. Given the above, in the peculiar facts and circumstances, it is a fit case where the continuation of criminal proceedings shall amount to an abuse of the process of law, and the Court invokes its inherent jurisdiction under section 482 CrPC and quashes the summons qua the petitioner and all subsequent proceedings.

Petition allowed. All pending applications stand closed in tune with this judgment. The trial be expedited of the other accused.

(ANOOP CHITKARA)
JUDGE

01.05.2023
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No