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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-24645-2018 (O & M)****Date of decision:- 14.09.2023**

Roshni Devi and anr.

.... Petitioners

V/s

Jagdish Chander

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Puja Chopra, Advocate, for the petitioners.

Mr. Ashish Nagar, Advocate, for the respondent.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of criminal complaint bearing No.NACT-7/18 dated 06.01.18 titled as 'Jagdish Chander V/s Vardan Multipurpose Cooperative Society Ltd. and Others' (Annexure P-1), summoning order dated 06.01.18 (Annexure P-8) and all consequential proceedings arising therefrom.

2. The brief facts of the case as emanating from the pleadings are that the petitioner No.1-Roshni Devi was earlier the Chairman and petitioner No.2-Vinod Kumar was the Director of Vardan Multipurpose Cooperative Society Ltd. However, on 15.12.2015, petitioner No.1 is stated to have given up her charge as a Chairman and had transferred her rights and share in favour of one Rattan Lal son of Paras Ram vide agreement dated 15.12.2015. A copy of the said agreement is annexed as Annexure P-2 to the petition.

3. In pursuant to the aforementioned agreement, the petitioners resigned from their respective posts as Chairman and Director vide letters

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Annexures P-3 and P-4 duly addressed to the Chairman/Board of Directors of Vardan Multipurpose Cooperative Society Ltd.

4. The intimation regarding the resignation of the petitioners and regarding the re-election of the Vardan Multipurpose Cooperative Society Ltd. is also stated to have been sent to the Central Registrar of Cooperative, Ministry of Agricultural, Department of Agriculture and Co-operation, Krishi Bhawan, New Delhi vide a letter dated 16.02.2017 which is attached as Annexure P-5 to the petition.

5. In pursuance to the aforementioned resignation, Rattan Lal and others were elected as Chairman and other office bearers of the aforesaid society respectively. After the elections, the Branch Manager Punjab National Bank, M.M. College Rattia Road, Fatehabad is also stated to have been intimated vide letter dated 19.04.2017 regarding the changing of the authorized signatories of the aforesaid Society. Mr. Tara Chand, Ranjodh Singh and Mr. Makhan Singh (the signatory to the instant cheque) are stated to have been appointed as authorized signatories to the Society. A copy of the letter dated 19.04.2017 is attached as Annexure P-6 to the petition.

6. Meanwhile, the present complaint came to be instituted at the instance of the respondent-complainant Jagdish Chander against the Society, the petitioners and the signatory-Makhan Singh with the allegations that the respondent-complainant had deposited a sum of Rs.1,20,000/- with the accused-Society and a sum of Rs.1,34,624/- was to be paid to him (respondent-complainant) including interest. A cheque No.365459 dated 15.11.2017 for an amount of Rs.1,34,623/- drawn on the Punjab National Bank, Branch at M.M. College, Fatehabad was issued to him but the same

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came to be dishonoured. A copy of the complaint dated 06.01.2018 is attached as Annexure P-1 to the petition.

Based on the said complaint, the petitioners and their co-accused including the Society came to be summoned by the Court of the SDJM, Ellenabad vide order dated 06.01.2018 (Annexure P-8).

7. The aforementioned complaint (Annexure P-1) and the summoning order (Annexure P-8) are under challenge in the instant petition.

8. The learned counsel for the petitioners contends that the petitioners resigned from the Vardan Multipurpose Cooperative Society Ltd. in furtherance of the agreement dated 15.12.2015 as was apparent from Annexures P-2, P-3 and P-4. The said resignations had also been conveyed to the Central Registrar Cooperative, Ministry of Agriculture, Department of Agriculture & Co-operation, Krishi Bhawan, New Delhi vide Annexure P-5. The cheque in question, however, was issued on 15.11.2017 and had been signed by Makhan Singh-non petitioner. Therefore, no liability could be affixed upon the petitioners.

Taking her arguments further, she contends that as per the agreement (Annexure P-2) which has also been adverted to by the respondent-complainant, the petitioner No.1 was liable for any outstanding business liability as and when due till 15.12.2015 only. In the instant case, as per Annexure R-1 annexed with the reply filed by the respondent-complainant, the complainant himself had deposited the last installment of Rs.5000/- on 28.02.2017 and had sought a return of Rs.1,34,624/- in terms of the Scheme of the Vardan Multipurpose Cooperative Society Ltd. on the same date i.e. 28.02.2017. Therefore, the petitioners could not be held to be

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liable for any amount due post their resignation on 15.12.2015 and the amount became due to the complainant only on 28.02.2017.

She, therefore, contends that as no liability could be affixed upon the petitioners on account of their resignation much earlier, and the signatory being Makhan Singh, the complaint (Annexure P-1), the summoning order (Annexure P-8) and all the consequential proceedings arising therefrom were liable to be quashed qua the petitioners alone.

9. The learned counsel for the respondent-complainant, on the other hand, while referring to the reply dated 10.04.2023 contends that the petitioners were the Chairman and the Director respectively of the Vardan Multipurpose Cooperative Society Ltd. during the period when the legally enforceable debt had arisen, even though the cheque in question had been issued in the year 2017 when they had resigned from the said Co-operative Society as office bearers. In view of Clause 6 of the agreement (Annexure P-2), the petitioner No.1 could not avoid her liability and, therefore, as the debt had arisen during the tenure when the petitioners were office bearers, they were equally liable for the offence in question. He, however, while referring to Annexure R-1 concedes that the last installment had been paid by the respondent-complainant to the aforesaid Society on 28.02.2017 and it was only thereafter that the cause of action had arisen in his favour when the cheque issued by the Vardan Multipurpose Cooperative Society Ltd. and signed by Makhan Singh came to be dishonoured at which point in time, the petitioners were not the office bearers of the aforesaid Society.

10. I have heard the learned counsel for the parties and examined the record.

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11. Admittedly, the petitioners resigned as per the agreement (Annexure P-2) as Chairman and Director respectively of the Vardan Multipurpose Cooperative Society Ltd. in question on 15.12.2015. The said fact had been communicated to the Society and the Ministry of Agriculture vide letters Annexures P-3, P-4 and P-5. The cheque in question, however, came to be issued only on 15.11.2017 much after the petitioners had resigned from their respective posts and, therefore, no liability whatsoever can be affixed upon the petitioners for the dishonour of the aforesaid cheque.

It would also be relevant to point out here that as per the agreement (Annexure P-2), the petitioners were to be jointly liable with the incoming management led by one Rattan Lal for any amount due to any person uptill 15.12.2015 even if the amount was to be paid later. However, in the instant case, the factual scenario is slightly different. The complainant-respondent had paid the final installment of Rs.5,000/- on 28.02.2017. On the same day, he moved an application for a full and final payment stating that as against the sum of Rs.1,20,000/- paid by him, a sum of Rs.1,34,624/- was to be returned to him. Therefore, as the amount became due to the respondent-complainant only after he had deposited the total amount of Rs.1,20,000/- by 28.02.2017, the petitioners cannot be held liable in any manner as they had resigned on 15.12.2015 and the amount became due to the complainant only on 28.02.2017 leading to the issuance of the cheque in question on 15.11.2017 which came to be dishonoured.

12. In view of the aforementioned discussion, the continuance of the proceedings emanating from criminal complaint bearing No.NACT-7/18 dated 06.01.18 titled as ‘Jagdish Chander V/s Vardan Multipurpose Cooperative Society and Others’ (Annexure P-1) and summoning order

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dated 06.01.18 (Annexure P-8) are nothing but an abuse of the process of the Court. Therefore, the complaint dated 06.01.18 (Annexure P-1), summoning order dated 06.01.18 (Annexure P-8) and all the subsequent/consequential proceedings arising therefrom stand quashed qua the petitioners only.

13. The present petition is disposed of in the above terms.

(JASJIT SINGH BEDI)
JUDGE

September 14, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes