202(1) **IN THE HIGH COURT OF PUNJAB AND HARYANA AT *CHANDIGARH***

CRM-M-32871-2018 (O&M)
Date of Decision: 10.03.2023

GAURAV CHUGH ...... PETITIONER

VS

MS. NEENA DHIMAN ... RESPONDENT

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vivek. K.Thakur and Ms. Mehak Bedi, Advocate for the petitioner .

Mr. Jagjot Singh, Advocate for the respondent.

****

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking setting aside of the order dated 04.01.2018 Annexure P-17 passed by learned Additional Sessions Judge, Gurugram whereby the revision petition against summoning order dated 2.08.2016 (Annexure P-6) passed by learned Judicial Magistrate Ist Class, in complaint No. 8442 of 2016 dated 12.07.2016 (Annexure P-4) was dismissed. Besides this, a prayer has also been made for quashing of the complaint titled as "Neena Dhiman Versus M/s Silver Star Fashions Private Limited and others" and all others subsequent proceedings arising therefrom.

Learned counsel for the petitioner while drawing the attention of this Court to form No. DIR-12 (Annexure-P-3) submits that the petitioner had resigned as Director of the accused company w.e.f 01.06.2016 i.e prior to the issuance and dishonor of cheque No. 110657 and still further even the statutory demand notice qua the three cheques in question in the instant complaint

(Annexure P-4) was issued on 16.06.2016 i.e. subsequent to the resignation of the petitioner.

Learned counsel thus submits that in the above circumstances once the petitioner had already resigned from the accused company he could not be held vicariously liable under Section 141 of the Negotiable Instruments Act (hereinafter 'Act') for an offence committed by the accused company under Section 138 of the Act.

Per contra, learned counsel for the respondent has vehemently controverted the submissions made by the counsel opposite. He inter alia submits that the statutory demand notice was issued within the prescribed period of 30 days from the date of dishonor of cheques. Learned counsel further submits that 2 out of the 3 cheques were issued and dishonored before the resignation of the petitioner, therefore the petitioner could not evade his liability by leaning on his resignation as admittedly he was still a Director and responsible for the day to day affairs of the accused company when the offence under Section 138 of the Act was committed.

Heard. Learned counsel for the parties and perused the material on record.

A perusal of form DIR-12 (Annexure P-3) reveals that the resignation of the petitioner from the post of Director of the accused Company was accepted w.e.f. 01.06.2016.

The relevant details of the cheques in the complaint in question (Annexure P-4) are as follows:

Sr.No	Cheque No.	Date of issuance	Date of dishonor
1.	110655	16.05.2016	20.05.2016
2.	110656	30.05.2016	01.06.2016
3.	110057	10.06.2016	13.03.2016

(Table-1)

The cheques at Sr. No. 1 and 2 were issued and dishonored at the time when the petitioner was still a Director and his resignation was yet to take effect. Therefore, the petitioner cannot seek quashing of the complaint on the ground that one out of the three cheques was issued and dishonored subsequent to his resignation particularly when the respondent has filed a common complaint qua all the three cheques which find mentioned in the above table.

This Court also finds no force in the submission made by the learned counsel for the petitioner that since the statutory demand notice was issued subsequent to the petitioner's resignation, he could not be fastened with any liability. It would be pertinent to note here that the relevant date for fixing liability would be when the offence was committed and not when the demand notice was issued.

As a sequel to the above, this Court has no hesitation in observing that the instant petition is devoid of any merit and thus deserves to be dismissed.

Dismissed.

(MANJARI NEHRU KAUL)
JUDGE

10.03.2023
renu

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