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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: October 06, 2023

Raghav Bumb and another

....Petitioners

versus

M/s Landmark Industries A Partnership Firm and others

....Respondents

CORAM: HON’BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Shiv Kumar, Advocate for petitioners.

None for respondent No.1/ complainant, despite service.

ARUN MONGA, J. (ORAL)

Petition herein is under Section 482 of Code of Criminal Procedure, 1973 (for short ‘Cr. P.C.’) seeking quashing of impugned order dated 25.08.2022 in a complaint case NACT No.2581 of 2018, dated 05.04.2018, titled “Landmark Industries versus Romesh Powertech Products Private Limited etc.” and subsequent proceedings arising therefrom, whereby application seeking exemption from personal appearance of petitioners was declined; bail of the petitioners was cancelled and bonds were forfeited to the State, and non-bailable warrants were issued against them.

2. Respondent No.1/ complainant filed a complaint case against the petitioners and others under Sections 138 of the Negotiable Instruments Act, 1881 (for short ‘NI Act’) read with Section 142 of the NI Act. Complainant-M/s Landmark Industries, Faridabad had supplied the goods for an amount of Rs.52,49,940/- to accused-Romesh Power Products Private Limited, in the year 2017. Accused through accused No.2 to 6, after deducting about Rs.3,000/- towards miniscule quantity being damaged, never raised any other dispute about the goods supplied and in October/ November, 2017 issued post dated cheques No.521102 dated 05.01.2018 amounting to Rs.10,00,000/-, 521105 dated 30.12.2017 amounting to Rs.32,46,084/- and 521103 dated 29.01.2018 amounting to Rs.10,00,000/-in favour of complainant, drawn on State Bank of India, Boring Canal RD-

Rajapool, East Boring Canal Road, Patna, Bihar. When deposited in the Bank, cheques

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No.521105 and 521102 were returned unpaid with the endorsement “Funds Insufficient” vide cheque returning memos dated 22.01.2018 and cheque No.521103 was returned with the endorsement “Funds Insufficient” vide cheque returning memo dated 08.02.2018. Complainant issued legal notice dated 19.02.2018 and corrigendum dated 20.02.2018 upon the accused.

3. Learned counsel for the petitioners submits that during course of trial, petitioners moved an application for exemption from appearance on 25.08.2022(Annexure P-3) as petitioner No.1 was required to appear in an examination being conducted in Prayagraj, Uttar Pradesh and petitioner No.2 was suffering from fever. Instead, vide impugned order dated 25.08.2022 (Annexure P-2), learned JMIC, Faridabad declined the aforesaid application and cancelled bail of the petitioners and bonds were forfeited to the State. He further contends that petitioners were continuously appearing in the trial Court, but could not appear on the aforesaid date on account of *bona fide* reasons and thus, trial Court wrongly dismissed the application seeking exemption from personal appearance.

4. None appears on behalf of the respondent No.1, despite notice, which is deemingly suggestive that respondent No.1 has no objection to the instant petition being allowed.

5. I have heard learned counsel for the petitioners and gone through the court file.

6. Vide order dated 16.03.2023 passed by a co-ordinate Bench of this Court, petitioners were directed to appear before the trial Court/ Area Magistrate/ Duty Magistrate and deposit the costs amounting to Rs.10,000/- each (total Rs.20,000/-). They were ordered to be released on interim bail subject to furnishing of fresh bail bonds/ surety bonds to the satisfaction of the trial Court/ Area Magistrate/ Duty Magistrate. It was further clarified that concession of interim bail would be subject to depositing of costs amount, as mentioned here-above, and same was to be deposited with the Welfare Fund of District Bar Association, Faridabad. Petitioners were also directed to furnish an

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undertaking/ affidavit that in future they will never keep themselves away from the proceedings of the trial, except with the prior permission of the Court.

6.1. On a Court query, learned counsel for petitioners submits that pursuant to aforesaid order dated 16.03.2023, petitioners appeared before the Court below on 18.03.2023 and also deposited the costs as directed vide order *ibid* and furnished undertaking/ affidavit as aforesaid. Learned counsel for petitioners has tendered a copy of order dated 18.03.2023 passed by learned trial Court, which is taken on record and marked as Annexure 'A'. Relevant part of the same reads as under:

“xx xx xx.

Further, the accused no. 2 and 4 namely Raghav and Krishan Mohan respectively have come present before the court. An application has been moved on their behalf to comply the order of the Hon'ble High Court. A copy of order dated 16.03.2023 passed by the Hon'ble High Court of Punjab and Haryana has been placed on record. The same has been verified by the Ahlmad concerned from the website of the Hon'ble High Court. Vide said order, the Hon'ble High Court has pleased to direct the accused No.2 & 4 to appear before the Trial Court on or before 18.03.2023 to deposit cost of Rs.10,000/- each with the welfare fund of District Bar Association, Faridabad, and to furnish affidavit/ undertaking that in future they will never keep themselves away from the proceedings of the trial, except with the prior permission of the Court and thereupon they shall be released on interim bail, subject to furnishing bail bonds/ surety bonds to the satisfaction of the Trial Court.

In compliance of the order of the Hon'ble High Court, the accused No.2 & 4 have come present before the court in person today i.e. on 18.03.2023. They have also deposited the cost of Rs.10,000/- each. Receipts have been placed on record. Moreover, they have furnished their affidavits to undertake that they will appear before the court on each and every date of hearing. Hence, both the accused persons are hereby admitted to interim bail subject to furnishing bail bonds in the sum of Rs.1,00,000/- each with one surety in the like amount. Requisite bail bonds and surety bonds have been furnished, accepted and attested. Now to come up on 05.04.2023 for filing reply to the application moved on behalf of accused No.5 as well as for serving notice of accusation upon the accused persons.”

6.2. Since the petitioners have appeared before the trial Court as aforesaid, no useful purpose would be served by keeping the proceedings pending against the petitioners. In the premise, order dated 16.03.2023 already implemented is made absolute. As a natural corollary, the impugned order dated 25.08.2022, whereby bail of petitioners was cancelled and non-bailable warrants were ordered to be issued, has become otiose. No further orders are required to be passed by this Court. Needless to

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add, petitioners shall continue to appear before learned trial Court on each and every date of hearing without default.

- 7. Disposed of, accordingly.
- 8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 06, 2023
mahavir

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