



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-41263-2023

Date of decision: 04.09.2024

Arijit Sanyal

...Petitioner

Versus

State of Haryana and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. R.S. Cheema, Sr. Advocate (Through VC) with
Mr. A.S. Cheema, Advocate for the petitioner.

Mr. Karan Garg, AAG, Haryana.

Mr. Nitin Grover, Advocate for respondent No.2.
(Through VC)

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 482 Cr.P.C. seeking quashing of criminal complaint NACT No.28421/2021 titled as M/s Federal Bank Limited Vs. M/s Feedback Infra Private Limited and others under Section 138 NI Act (Annexure P-1) and summoning order dated 02.08.2022 (Annexure P-2) passed by the learned trial Court.

2. The brief facts of the case are that respondent No.2 filed criminal complaint Annexure P-1 against M/s Feedback Infra Private Limited and its directors including the present petitioner, on the basis of dishonor of three cheques worth Rs.4 crores issued by aforesaid Company in favour of respondent No.2-bank and the same were dishonored on their presentation. After recording of preliminary evidence, all the accused including the present petitioner were summoned by the trial Court vide order Annexure P-2. Being aggrieved, the present petition has been filed by the petitioner.



3. The counsel for the petitioner submits that petitioner was Non Executive Director/Nominee Director of M/s Feedback Infra Private Limited and further he was not signatory to the cheques in question. It is further submitted that it being so, petitioner cannot be vicariously held liable on account of dishonor of the cheques in question which were issued on behalf of M/s Feedback Infra Private Limited. It is further submitted that no offence under Section 138 read with Section 141 of NI Act is made out against the present petitioner.

4. The present petition is resisted by counsel for respondent No.2 who submits that at the relevant time petitioner was director of M/s Feedback Infra Private Limited and the cheques in question were issued by the authorize signatories of the said Company and as the said cheques were dishonored, the petitioner is equally liable under Section 138 read with Section 141 NI Act. It is further prayed that the present petition being devoid of merits deserves to be dismissed.

5. I have considered the submissions made by counsel for the parties.

6. The petitioner has placed on record Form No.DIR-12, as per which, the petitioner was appointed as Nominee Director of M/s Feedback Infra Private Limited. Admittedly, the petitioner is not signatory to the cheques in question whose copies are also placed on record. It is apparent that the petitioner was not drawer of the cheques in question.

7. In ***Sunita Palita and others Vs. Panchami Stone Quarry (2022) 10 SCC 152***, the Hon'ble Supreme Court of India has held that non executive director is not involved in the day to day affairs of the Company or in the running of its business and such director is in no way responsible for the day to day running of the Company and thus, is not vicariously liable under Sections 138/141 NI Act.

8. The Hon'ble Apex Court in ***Ashoke Mal Bafna Vs. Upper India Steel Manufacturing Company Limited (2018) 14 SCC 202*** held that it is not sufficient to make a bald cursory statement in a complaint that director (arrayed as an accused) is incharge of and responsible to Company for conduct of business of Company, without anything more as to the role of



director. The complainant should spell out as to how and in what manner, accused was incharge of or was responsible to the Company for conduct of its business.

9. It is apparent that the cheques in question were not issued under the signatures of the petitioner on behalf of M/s Feedback Infra Private Limited. The Hon'ble Supreme Court in Criminal Appeal No.813-2013 titled ***Mrs. Aparna A. Shah Vs. M/s Sheth Developers Private Limited and Another***, decided on 01.07.2013 has held that only the 'drawer' of the cheque who can be made liable for the penal action under the provisions of the NI Act.

10. Looking at the facts of the present case, in the light of the settled position of law as discussed above, the petitioner cannot be held liable under Section 138/141 NI Act.

11. Consequently, the present petition is allowed and criminal complaint (Annexure P-1) and summoning order (Annexure P-2) are quashed against the petitioner herein, only.

04.09.2024

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No