

2024:PHHC:172518

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 12.12.2024

CRM-M-59598-2024 (O&M)

PRIYA THAPAR

....PETITIONER

Versus

M/S. GULAB CHAND GIRDHARI LAL

...RESPONDENT

CRM-M-59610-2024 (O&M)

PRIYA THAPAR

....PETITIONER

Versus

M/S. GULAB CHAND GIRDHARI LAL

...RESPONDENT

CRM-M-59617-2024 (O&M)

PRIYA THAPPAR

....PETITIONER

Versus

M/S. GULAB CHAND GIRDHARI LAL

...RESPONDENT

CRM-M-59618-2024 (O&M)

PRIYA THAPPAR

....PETITIONER

Versus

M/S. GULAB CHAND GIRDHARI LAL

...RESPONDENT

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CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Punnet Jain, Senior Advocate with
Ms. Bhumika Sachan, Advocate
for the petitioner (Hybrid Mode).

SANDEEP MOUDGIL, J.

1. This order shall dispose off above mentioned four petitions by this common order being passed in CRM-M-59598-2024, which is being treated as the lead case and the facts of this case are being taken for their disposal, as common question of facts and law is involved in all the petitions.

2. Relief sought:

This petition has been filed under Section 528 of the Bhartiya Nagrik Suraksha Sanhita, 2023, with a prayer to quash the summoning order dated 14.02.2024, Annexure P-6, in the Complaint No. NACT/1942/2023, Annexure P-5, titled "M/s Gulab Chand Girdhari Lal Vs. JCT Ltd. Phagwara & others" registered on 18.12.2023 pending before the learned Judicial Magistrate Ist Class, Abohar.

3. Facts of the case:

The firm – M/s Gulab Chand Girdhari Lal, a partnership firm, has filed complaint under Section 138 read with Section 142 of the Negotiable Instruments Act, 1881, against JCT Ltd. Phagwara & others, including JCT Ltd. Phagwara, GT Road, Phagwara (accused No.8), in which the petitioner is the Director, alleging that accused No.1 – JCT Ltd. Phagwara is a company, registered under the Companies Act, 1956, and its plant office is situated at GT Road

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Phagwara and as per the knowledge of the complainant firm, accused no.4 (Sh.Sameer Thapar) is the Managing Director of accused no.1 to 3 company and accused No.5 to 9 are the Directors of accused No.1 to 3 company and accused No.10 is the AGM/Accounts/Authorised Signatory of accused No.1 to 3 company and accused no.11 is the accounts manager/authorized signatory of accused No.1 to 3 company. Accused No.1 is managing the business affairs, dealing of sale and purchase as well as financial transaction and all other day to day affairs of the accused no.1 to 3 company whereas accused no.5 to 9 are also looking after the entire business by actively participating in the day to day affairs of the busies of accused No.1 to 3 company by handling various departments individually. Few years ago, the accused approached the complainant firm for the purchase and financing of cotton bales and also agreed to make the payments and commission @ 50% alongwith other settled terms and conditions including that in case the outstanding amount is not paid within the stipulated period then the accused company will be bound to pay outstanding amount with interest @ 15% per annum according to Northern Cotton Association Rules. Since then, accused have been purchasing the cotton bales from the complainant firm regularly and making payments and verifying the accounts of the complainant firm from time to time and accused in discharge of their part legal liability towards complainant firm issued 2 cheques bearing No.981689 dated 05.07.2023 amounting to Rs.38.00 lacs and 981690 dated 06.07.2023 amounting to Rs.38.00 lacs, both drawn on Punjab National Bank, Banga Road, Phagwara (Kapurthala) under the signatures of accused No.10 and 11 in the presence of

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accused No.4 to 9 on behalf of accused No.1 to 3 company in favour of the complainant firm. Cheque No.981690 amounting to Rs.38.00 lacs was presented for realization but the same was dishonoured by the banker of the accused company and was returned vide memo dated 30.09.2023 with the remarks "Exceeds Arrangements". The complainant firm approached the accused, through its partner, and apprised about the dishonour of their cheque and also served legal notice dated 26.10.2023, through registered post, asking to make payment of the cheque amount within 15 days but to no avail. Hence, the complaint, Annexure P-5.

3. Contention:

It is contended on behalf of the petitioner that though the petitioner was working as a Director (Human Resources) at JCT Ltd and became part of the Board of Directors as Whole-Time Director of the Company on 01.01.2013. But, during her tenure as one of the many Directors of the Company, was restricted to managerial functions of the company, and was never involved in the decision making process of finances of the company, involving taking loans and processing payment of orders, and has never in her tenure signed any cheque or authorized any payment whatsoever. The petitioner was employed by the Company on monthly salary basis and she terminated all association with M/s JCT Ltd. since July, 2023 on account of the mismanagement by Samir Thapar (accused No.4) and his advisors. The petitioner resigned from the post of Director on 08.10.2023, Annexure P-2, and had no association with the company ever since. The intimation of her resignation was also sent to all the existing

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members of Board of Directors by e-mail, Annexure P-3, and also submitted to the ROC on 09.11.2023 in E-Form DIR-11, Annexure P-4.

After her resignation, the petitioner does not have any access to the official email address of the company and does neither reside or operate from the official address of the company.

It is further contended that the petitioner had already resigned from the company before legal notice u/s 138 was served upon the company on 26.10.2023 and as such, no notice was served upon the petitioner nor did she receive any notice. The complainant has filed the complaint u/s 138 of the Negotiable Instruments Act by arraying the petitioner also as an accused (No.8), and the learned Judicial Magistrate Ist Class, Abohar, has summoned the petitioner also, alongwith other accused, vide order dated 14.02.2024, Annexure P-6, to face trial of the complaint. The petitioner was not aware of the complaint and the summoning order and as such was declared Proclaimed Person, vide order dated 18.07.2024 – Annexure P-7, but came to know about the proclamation order and the complaint and the summoning order through other accused persons and put in appearance through her counsel which can be seen from the order dated 22.08.2024, Annexure P-8. In the end, it is prayed on behalf of the petitioner that in view the above facts and circumstances, the summoning order, qua the petitioner, may kindly be quashed.

4. Heard and case file also perused.

5. **Analysis:**

This Court has perused the case file in depth and has noticed that the petitioner, alongwith her counsel, had put in appearance before

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the learned trial Court and on her request, the hearing was deferred to 26.09.2024. The petitioner was advised by the Court to move an application for bail on the next date of hearing i.e. 26.09.2024. However, neither the petitioner nor her counsel caused appearance on 26.09.2024 and thus she was declared Proclaimed Person by the learned trial Court on 26.09.2024. Thus, the petitioner cannot say that she was not aware of the proceedings rather her conduct shows that she had intentionally and deliberately stayed away from the proceedings before she was declared Proclaimed Person vide earlier order dated 18.07.2024 – Annexure P-7 and thereafter, she caused appearance on 22.08.2024 and got her attendance marked but did not appear on the next date i.e. 26.09.2024 for getting bail from the Court nor did she file any application seeking exemption for personal appearance or any other application showing her bona fide for not attending the case proceedings on 26.09.2024. Therefore, her conduct shows that she is irresponsible and has no respect for the Court orders.

6. Conclusion:

In view of what has been discussion hereinabove, this Court does not find any ground to interfere with the order dated 14.02.2024, Annexure P-6, and accordingly, the same is upheld and the present petition, and its connected petitions mentioned above, fail and hereby stand dismissed.

(SANDEEP MOUDGIL)
JUDGE

12.12.2024*Poonam Negi*

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No