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

CRM-M-25407-2022 (O&M)

Date of decision 09.02.2026

SONIA JAIN

..... PETITIONER

VERSUS

STATE OF PUNJAB AND ANR

..... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Ms. Neetu Singh Aashat, Advocate
for the petitioner.

Mr. Eklavya Darshi, Deputy Advocate General, Punjab.

Mr. R.S. Bal, Advocate
for the respondent No.2-complainant.

SURYA PARTAP SINGH. J.

1. The quashing of complaint filed by the respondent under Section 138 of Negotiable Instruments Act, and also the order dated 24.09.2021 passed in the above-mentioned complaint, has been sought by virtue of present petition under Section 482 of Code of Criminal Procedure.

2. In nut-shell the facts emerging from record are that the respondent No.2 has filed a complaint under Section 138 of Negotiable Instruments Act against a company namely 'M/s Noble Steels Pvt. Ltd.' and its Directors namely, Sonia Jain (petitioner herein) and Ashu Jain. In the above-mentioned case, the petitioner has been summoned as an accused. The petitioner has filed



the present petition by alleging that the learned trial Court has failed to appreciate the fact that in the complaint there was nothing on record to show that on the day when existing liability was created or the cheque was issued in favour of complainant-respondent No.2 herein, the petitioner had ceased to be a director of the company.

3. Heard.

4. It has been contended by learned counsel for the petitioner that four cheques were issued by a company known as 'Noble Steels Pvt. Ltd.' in favour of respondent No.2, for a sum of Rs.5,01,803/-, Rs.5,66,184/-, Rs.6,19,377/- and Rs. 5,57,486/-, drawn on India bank, Sunder Nagar, Ludhiana, and that the above-said cheques were dishonoured by the banker of above-mentioned company, and thus, the above-mentioned company and its Directors were responsible for the commission of offence punishable under Section 138 of Negotiable Instruments Act. According to learned counsel for the petitioner on the basis of above-mentioned allegations without looking into the fact that the petitioner was neither signatory to the cheque nor a director on the date of issuing the cheque, the summoning order against the petitioner has been passed.

5. With regard to above, it has been contended by learned counsel for the petitioner that the petitioner was a director in the above-mentioned company but till 20.03.2021 only, when she had resigned from the Directorship. As per learned counsel for the petitioner with regard to above-mentioned resignation a resolution was adopted by the Board of Directors and the information was also given to the Registrar of company by uploading information on the website in the format DIR12. As per learned counsel for the petitioner, once the petitioner



was neither a signatory to the cheque nor on the Board of Directors of the company, namely 'M/s Noble Steels Pvt. Ltd.', she could not have been prosecuted for any default committed by the company, with regard to dishonour of cheque issued on behalf of company.

6. The learned State counsel, being assisted by learned counsel for the respondent No.2, has controverted the above-mentioned arguments. It has been contended by learned counsel for the respondent No.2 that a clever move has been made by the petitioner to wriggle out of the consequences of dishonour of cheque issued by the company. According to learned counsel for the respondent No.2 in fact the petitioner is the wife of another Director of the company namely Ashu Jain, and that a false document has been created by the petitioner to save her skin from the liability with regard to dishonour of cheque. As per learned counsel for the respondent No.2 in fact total 16 cheques were issued by the company of the petitioner and her husband, and that all the 16 cheques were dishonoured and therefore, for the commission of above-mentioned offence four different complaints, pertaining to four cheques each were filed. The learned counsel for the respondent No.2 has further contended that except the complaint related to present petition, all the complaints are in progress before the learned trial Court. While claiming that the petitioner was responsible for the dishonour of cheque issued by the company of which she was a Director, it has been contended by learned counsel for the respondent No.2 that there is no merit in the claim of the petitioner.

7. In addition to above, the learned counsel for the respondent No.2 has also contended that the arguments being raised by the learned counsel for the petitioner, today are altogether different from the arguments which were raised



at the time of initial hearing of the present petition. According to learned counsel for the respondent No.2 on 13.09.2023, when the notice of motion was issued in this case the arguments were addressed by the learned counsel for the respondent No.2 on the line that moratorium had been imposed by the insolvency authority qua the company of petitioner, and therefore, proceedings under Section 138 of Negotiable Instruments Act could not have taken place. As per learned counsel for the respondent No.2 with regard to above-mentioned situation the Hon'ble Supreme Court of India has already clarified that moratorium imposed by insolvency authority cannot come in the way of proceedings under Section 138 of Negotiable Instruments Act. The learned counsel for the respondent No.2 has contended that in view of above-mentioned change legal position, now a different stand has been taken by the petitioner.

8. In view of above, the learned counsel for the respondent No.2 has contended that the present petition seeking for quashing of complaint vis-a-vis summoning order is devoid of merits and deserves dismissal.

9. The record has been perused carefully.

10. A perusal of record shows that in the present case there are certain facts qua which there is no dispute between the parties:-

- i) that the petitioner is not a signatory to the cheques in question;
- ii) that 'M/s Noble Steels Pvt. Ltd.' is a private limited company;
- iii) that the petitioner and her husband were Directors of the above-mentioned company;
- iv) that the cheques in question were issued with regard to existing liability of above-mentioned company;



- v) that the cheques issued on behalf of above-mentioned company were dishonoured by the banker of above-mentioned company, and therefore, complaints under Section 138 of Negotiable Instruments Act have been filed by the respondent against the above-mentioned company and its Directors.

11. In the light of above-mentioned admitted position, now it has to be determined whether the above-mentioned complaint qua the petitioner is maintainable or not. With regard to above, it is relevant to mention here that the complaint against the petitioner has been filed by alleging that she was a Director of the above-mentioned company when the cheques were issued. Qua above-mentioned plea, the stand of the petitioner is that prior to the issuance of cheque, i.e. on 20.03.2021, she had resigned from the Directorship of the company. In support of above-mentioned plea, the copy of resignation letter, the copy of Form DIR12 and the copy of resolution adopted by the Board of Director of the company, dated 20.03.2021, have been placed on record by the petitioner. Since the petitioner had submitted a resignation which was duly accepted by the Board of Director and the Registrar of company was duly apprised about the resignation of petitioner much before the issuance of cheques dated 04.05.2021, 05.05.2021 and 06.05.2021, this plea of the petitioner has got force that on the date when the cheques were issued on behalf of company, she was not a Director of the above-mentioned company.

12. In the present case another relevant aspect to be considered is that the cheques in question does not carry the signature of the petitioner. Since the petitioner is not a signatory to the cheque, unless it would have been *prima facie* pleaded and proved by the complainant/respondent No.2 that she was



responsible for the day to day affair of the company. Even if she would have been signatory to the above-mentioned cheques, there would have been a question mark with regard to legality of prosecution of petitioner. However, the present case stands on a much better footing than the above-mentioned proposition.

13. In addition to above, it is also relevant to mention here that as per settled principles of law, this is the duty of the complainant to plead and *prima facie* establish that the petitioner was responsible for conducting its day to day affairs of the company and was responsible for its liability. However, except the bare averments, there is nothing on record to show that the petitioner was in any way involved in the deal of respondent with the company 'M/s Noble Steels Pvt. Ltd.', and thus, the averments made in the complaint are deficient qua that aspect also.

14. Taking into consideration the cumulative effect of all the above-mentioned factors once the petitioner was not a signatory to the cheque in question and she had already resigned from the company as Director much before the issuance of cheque and there is nothing on record to show that she had actively participated in the deal between the respondent and the former company of the petitioner, it is hereby held that the petitioner is not responsible for any default committed by the company 'M/s Noble Steels Pvt. Ltd.' and the prosecution of petitioner with regard to default committed by the company is nothing but an abuse of process of law.

15. Taking into consideration the above-mentioned facts and circumstances, it is hereby held that sufficient ground exists in the present

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petition with regard to exercise of extraordinary jurisdiction vested in this Court by virtue of Section 482 of Cr.P.C.

16. As a sequel to above-mentioned observation, it is held that the present petition deserves to be accepted. Hence the present petition is hereby accepted. The summoning order dated 24.09.2021 and the complaint, in question, are hereby quashed qua the petitioner.

17. All other pending applications, if any, are also disposed off, accordingly.

(SURYA PARTAP SINGH)
JUDGE

09.02.2026*vipin*

Whether speaking/reasoned : Yes
Whether Reportable : No