IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

131-II **CRM-M-45821-2018 (O&M)**
Date of decision : 17.03.2026

Raj Bala & Ors.

..... Petitioners

VERSUS

State of Haryana & Ors.

..... Respondents

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Aseem Singh, Advocate for
Mr. Karan Singh, Advocate for the petitioners.

Mr. R.S. Chauhan, AAG Haryana.

Mr. Ivneet Singh Pabla, Advocate for the respondent No.2.

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SURYA PARTAP SINGH, J.

1. By virtue of present petition, the extraordinary jurisdiction vested in this Court by virtue of Section 482 of Criminal Procedure Code has been invoked.

2. The abovementioned petition has been filed for quashing of complaint No.1196 titled as 'M/s R.P. Trading Company V/s Dev Dhan Raj & Ors.', filed by the respondent No.2, under Section 138 of Negotiable Instruments Act, hereinafter being referred to as 'NI Act' only, as well as summoning order dated 11.11.2016, passed by the Court of learned Judicial Magistrate First Class Kurukshetra, hereinafter being referred to as 'trial Court' only.

3. In nut-shell, the facts emerging from record are that the respondent No.2/complainant, hereinafter being referred to as 'respondent No.2' only, filed a complaint for the commission of offence punishable under Section 138 read with Section 142 of NI Act. It has been alleged by the respondent No.2 was having a business dealing with 'Dev Dhan Raj Agri. Products International Private Limited', and that Raj Bala, Aarti Aggarwal and Mona Garg (petitioners herein) along with other accused, namely Rajeev Kumar (respondent No.4 herein) and Vinod Kumar (respondent No.5 herein), are the directors of the abovementioned firm. According to respondent No.2, in discharge of their liability, with regard to legally enforceable debt, the petitioners and respondents No.4 & 5, on behalf of respondent No.3, had issued a cheque amounting to Rs.8.50 lacs in favour of the respondent No.2.

4. The respondent No.2 has further alleged that at the time of issuing cheque, an assurance was given to the respondent No.2 that on presentation before the banker of respondent No.3, the abovementioned cheque would be honoured, but on presentation of cheque the banker of respondent No.3 refused to honour the cheque, and therefore, a legal notice was served, by the respondent No.2, upon the petitioners and respondents No.3 to 5, calling them upon to pay the due amount. According to respondent No.2, when the petitioners and respondents No.3 to 5 failed to make the payment, the complaint in question has been filed.

5. The present petition has been filed by the petitioners claiming therein that their prosecution for the commission of offence punishable

under Section 138 read with Section 142 of NI Act is nothing, but an abuse of process of law, as the cheque in question was issued on 20.06.2016, but the petitioners had resigned from the respondent No.3/Company much prior to issuance of abovementioned cheque, and therefore, their prosecution for the commission of offence punishable under Section 138 of NI Act is an abuse of process of law.

6. Heard.

7. It has been contended by learned counsel for the petitioners that the law prescribes that for invoking the liability of an individual, by invoking Section 142 of NI Act, there must be specific allegation against that person, with regard to the fact that he was either signatory of the cheque or responsible for day-to-day affairs of the Company. According to learned counsel for the petitioners, in the present case the role attributed to the petitioners does not qualify any of the abovementioned two conditions. In support of his arguments, learned counsel for the petitioners has referred to Annexure P-3, the Form DIR-12. A perusal of abovementioned documents show that prior to issuance of cheque, i.e. on 12.11.2015, the petitioners had resigned from the respondent No.3/Company.

8. According to learned counsel for the petitioners, once on the date when the cheque was issued, the petitioners were not Directors of the Company, and otherwise also they are not signatory of the cheque, by invoking Section 142 of NI Act with regard to any legally enforceable debt of respondent No.3, any liability cannot be fastened upon the petitioners.

9. The learned counsel for the respondents has controverted the abovementioned arguments. According to learned counsel for the respondents, the petitioners are close family members of the respondents No.4 and 5, and that soon before dishonour of cheque, all the petitioners were Directors of the Company and therefore, they are bound to face the consequences of dishonour of cheque, issued on behalf of respondent No.3.

10. The record has been perused carefully.

11. A perusal of record shows that the copy of Form DIR-12 has been placed on record by the petitioners and the abovementioned document goes to show that on 12.11.2015, the petitioners had resigned from the Directorship of respondent No.3/Company. Thus, it is apparent that for any act of the Company, i.e. respondent No.3, the petitioners could not have been held responsible, after the acceptance of their resignations.

12. In addition to above, it is also an admitted fact in this case that the petitioners had not signed the cheque in question. Thus, considering the overall scenario, it is hereby ordered that the petitioners cannot be held liable for any criminal liability of the respondent No.3, and therefore, the prosecution of petitioners, forcing them to face trial for the commission of offence punishable under Section 138 of NI Act, is nothing, but an abuse of process of law.

13. With regard to present case, the principles of law laid down in the case of 'State of Telangana v. Habib Abdullah Jeelani' AIR 2017 SC 373, are relevant, wherein the law propounded in the case of 'State of Haryana Vs Ch. Bhajan Lal' 1992 AIR SC 604, has been reiterated. It has been observed

that the quashing of FIR can be ordered in the following cases:-

a. Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not *prima facie* constitute any offence or make out a case against the accused.

b. Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 115(2) of the Code.

c. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

d. Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

e. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

f. Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

g. Where a criminal proceeding is manifestly attended with mala fides and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

It is worthy to note here that the Court has clarified that the said parameters or guidelines are not exhaustive, but only illustrative. Nevertheless, it throws light on the circumstances and situations where the Courts' inherent power can be exercised.

14. If the factual matrix of the present case is analyzed in the light of abovementioned law, it transpires that the petitioners have got a right to file the present petition, seeking for quashing of complaint as well as summoning order qua them. Hence, finding merit in the present case, the same is hereby ***allowed*** and the complaint in question, vis-à-vis the summoning order dated 11.11.2016 and all other consequential proceedings pertaining to abovementioned complaint, are hereby quashed qua the petitioners.

15. Pending miscellaneous application(s), if any, stand(s) disposed of, accordingly.

(SURYA PARTAP SINGH)
JUDGE

17.03.2026
Gaurav Thakur

Whether speaking / reasoned Yes/No
Whether Reportable Yes/No