
(2013) 01 DEL CK 0159

In the Delhi High Court

Case No : Crl. M.C. 1050, 3071, 3072 and 3073/2012

Amul Urhwareshe

APPELLANT

Vs

State (NCT of Delhi) and Another

RESPONDENT

Date of Decision : 08-01-2013

Acts Referred:

Citation : (2013) 1 ILR Delhi 702 : (2013) 2 JCC 113

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Judgement

G.P. Mittal, J.—By virtue of these four Petitions, the Petitioner seeks quashing of the four Complaints titled "M/s. Indian Renewable Energy Development Agency Ltd. (IREDA) v. M/s. Enbee Infrastructure Ltd. Etc." qua him on the ground that the dishonoured cheques were dated 31.03.2005; and the Petitioner resigned from the Directorship of M/s. Enbee Infrastructure Ltd. on 31.08.2000 and information in this regard was sent to the Registrar of Companies (ROC) on 10.09.2000, thus the Petitioner cannot be said to be guilty of offence punishable u/s 138 of the Negotiable Instruments Act, 1881 (the N.I. Act). The learned counsel for the Petitioner also relies on the order dated 24.01.2011 passed by A.K. Pathak, J. in Criminal M.C. No. 1366/2010 and dated 11.04.2012 passed by Pratibha Rani, J. in Criminal M.C. No. 1926.2011 where in similar circumstances the complaint against the Petitioner was quashed.

2. The learned counsel for Respondent No. 2 opposes the Petition on the ground that a perusal of Form No. 32, certified copy of which has been placed on record shows that its effective date was only 06.04.2004. He urges that the Petitioner's liability arose much before 06.04.2004 and mere recording in Column No. 6 of Form No. 32 that the Petitioner resigned as Director w.e.f. 31.08.2000 would not be sufficient to absolve him of his liability under the N.I.Act. In support of this contention, the learned counsel for Respondent No. 2 places reliance on Atul Kohli and Another Vs. State of Punjab and Another, .

3. Learned counsel for the Petitioner has taken me through the certified copy of

Form No. 32 and also the receipt through which the information regarding resignation was communicated to the ROC. The demand draft for Rs. 1,000/- for lodging an information regarding date of change in appointment was prepared on 03.09.2000 and the information was lodged on 10.09.2000. Therefore, the information regarding Petitioner's resignation would be effective from 10.09.2000. It cannot be said that this information was manipulated or was pre-dated as the same was documented. Atul Kohli relied upon by the learned counsel for Respondent No. 2, therefore, does not apply to the facts of the present case.

4. Since the Petitioner was not the Director of the Company on the date when the offence was allegedly committed, he cannot be prosecuted by taking aid of Section 141 of the N.I. Act. A reference in this connection may be made to a judgment of this Court in *M.L. Gupta and Others Vs. DCM Financial Services Ltd.*, . In similar circumstances, the complaints were quashed by the Delhi High Court in Criminal MC Nos.1317/2009, 1318/2009, 1319/2009, 1320/2009, 1321/2009 & 1322/2009.

5. I find no reason to take a different view. Thus, the Petitions preferred by the Petitioner are allowed and Criminal Complaint Case Nos.2106/1 of 2003, 895/12 of 2005, 901/12 of 2004 and 897/12 of 2004 and the proceedings arising there from as against the Petitioner are quashed. Pending Applications also stand disposed of.