



CRM-M-46941-2022 (O&M)
CRM-M-46954-2022 (O&M)

- 1-

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

209-I

CRM-M-46941-2022 (O&M)
Date of decision: 11.09.2025

Ashish Mullick

....Petitioner

Versus

Siemens Financial Services Pvt. Ltd. and others

...Respondents

CRM-M-46954-2022 (O&M)

Ramesh Shroff

....Petitioner

Versus

Siemens Financial Services Pvt. Ltd. and others

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sahil Khunger, Advocate for the petitioners

Mr. Raj K. Narang, Advocate for the respondent.

AMAN CHAUDHARY, J.

1. This common order shall dispose of the above-mentioned petitions as they relate to the same parties having allegations of dishonour of cheques.
2. The petitioners, being directors in the accused-Firm, Emkay Automobile Industries Ltd., were summoned by the learned Judicial Magistrate First Class, Gurugram, Haryana, vide order dated 16.09.2020 in



CRM-M-46941-2022 (O&M)
CRM-M-46954-2022 (O&M)

- 2-

the Criminal Complaint No.NACT/6870/2020, dated 26.02.2020, titled as “Siemens Financial Services Pvt. Ltd. Vs Emkay Automobile Industries Ltd. & Ors.”, under Section 138 of Negotiable Instruments Act, 1881 (‘NI Act’ for short) as instituted by the respondent-Company on account of dishonour of 2 post-dated cheques, issued on 29.10.2019 and 29.12.2019, which were returned with remarks, “Funds Insufficient”. Petitioners were not the signatories thereto; besides, had even retired from the accused-company, w.e.f. 01.04.2019, for which reliance is placed on FORM NO. DIR-12 as per the Companies Act, 2013, (corresponding to ‘Form 32’ under the Companies Act, 1956) Annexure P-4, that remained unrebutted in the reply, stated to be also available on the official website of Ministry of Corporate Affairs, Government of India.

3. Insofar as the issue of the liability of a Director who had resigned is concerned, the same is no longer *res integra*, as settled in **Harshendra Kumar D. vs. Rebatilata Koley**, (2011) 3 SCC 351, wherein the Director had resigned on 02.03.2004 and the dishonoured cheques were issued on 30.04.2004, Hon’ble the Supreme Court observed that where, on the very face of unimpeachable and reliable documents produced by the accused, the allegations levelled against the appellant cannot be sustained, since on the date the offence, he was not the Director; had nothing to do with the affairs of the Company, thus continuation of the criminal complaints against him, would tantamount to an abuse of process and set aside the judgment passed by the High Court, with the observations that quashing of the complaint in exercise of the inherent jurisdiction under Section 482 of Cr.P.C. so as to prevent injustice would be justified. For, if the accused is



CRM-M-46941-2022 (O&M)

CRM-M-46954-2022 (O&M)

- 3-

compelled to face trial and establish his defence before the trial court in such circumstances, it would amount to a travesty of justice.

4. In the facts as involved in the present case, Hon'ble the Supreme Court in **Adhiraj Singh vs. Yograj Singh**, 2024 SCC OnLine SC 5558, while allowing the appeal and setting aside the judgment of High Court, quashed the complaints qua the appellant, by observing that he had resigned on 21.06.2019, which was submitted before the Registrar of Companies on 26.06.2019, whereas the cheques in question were issued on 12.07.2019 and further holding that, "Having considered the submissions made by learned counsel for the parties, we find that in the present case on the date of issuance of the cheques, the appellant had already resigned. The fact regarding resignation is not in dispute. It is also not in dispute that the cheques issued by the Company were signed by another competent person on behalf of the Company. Once the facts are plain and clear that when the cheques were issued by the Company, the appellant had already resigned and was not a director in the Company and was not connected with the company, he cannot be held responsible for the affairs of the Company in view of the provisions as contained in Section 141 of the NI Act."

5. No criminal liability can be fastened upon the Directors, without there being specific averment/s in the complaint, regarding their role, as held by Hon'ble the Supreme Court in **National Small Industries Corpn. Ltd. vs. Harmeet Singh Paintal** (2010) 3 SCC 330, which in the present case being conspicuously absent, the contention of learned counsel for the respondents cannot be countenanced.

6. As a corollary, the present petition deserves to be and is hereby,



CRM-M-46941-2022 (O&M)
CRM-M-46954-2022 (O&M)

- 4-

allowed. The impugned complaint and all proceedings arising out thereof, are hereby set aside qua the present petitioners.

7. Photocopy of this order be placed on the file of the connected case.

11.09.2025
Deepak Patwal

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No