

LEGAL UPDATES

DELHI HC: HC REVOKES COMPLAINT AGAINST DIRECTOR FOR DISHONoured CHEQUES ISSUED AFTER HIS RESIGNATION

In a writ filed by the Director ("Petitioner") of a company, the question was on the liability of the Petitioner in the issuing of disputed checks after he had ceased to be the Director of the accused business, was raised before the bench constituting Justice Manoj Kumar Ohri of Delhi HC. The Petitioner contended that the complaints made against him under Sec.(s) 138 & 141 of the NIA cannot hold him liable as he had ceased to be the Director at the time of issue of the disputed checks; thereby seeking to revoke the complaints made against the Petitioner. The complainant contended that the Petitioner had executed a guarantee deed favouring the complainant company and thereby should undertake personal liability. The Court took notice of Sec.(s) 138 & 141 and opined that to attract vicarious liability under Sec. 138/141 of the Act, at the juncture the offence was perpetrated, the accused individual was supposed to be in charge of and accountable for the operation of the accused corporation. The Court also noted that the said cheques were signed by the accused company's MD, i.e., Respondent 3 and there is nothing on record to indicate the Petitioner's liability for issuing the disputed cheques at the moment the offence was committed. Thereby, the HC revoked the summons order issued against the Petitioner following the complaints made against him under Sec.s 138/141 of the Act, ruling that he cannot be vicariously held liable since he ceased to be the Director of the accused business prior to the issuing of the disputed cheques. Therefore, the court overturned the complaint against the Petitioner. Hence, the petition was accepted.