

Monte Grand Country Resort Vs Tavisha Hotel And Resorts Pvt. Ltd.
Etc.

Present: Sh. Poonam Sharma Khushdil Advocate for complainant.
Sh. Pushpinder Kaushal Advocate for accused no. 1 & 2.

**Summons to accused no. 3 not issued vide order
dated 10.10.2022**

Heard on the application dated 10.09.2024 filed on behalf of accused no. 1 & 2 seeking dropping of proceedings qua them. It is submitted that the present complaint has been filed by giving description of the complainant as Monte Grand Country Resort through its attorney Ravi Jagwani who is stated to be power of attorney of his wife Malini Jagwani, whereas the said person is neither the proprietor nor partner etc. of the said Resort and therefore, he cannot file the present complaint in his individual capacity. It is further submitted that the name of Malini Jagwani who is Proprietor of said Resort is not reflected in the title of the complaint and therefore, the present complaint is not legally maintainable. Reliance has been placed upon the case titled as **A.C. Narayanan Vs. State of Maharashtra 2013 (14) Criminal 213 para no. 24**. It is further submitted that perusal of the complaint and legal notice reveals that the name of signatory of the cheque has been mentioned as Amritpal Singh whereas the actual name is Amit Pal Singh and therefore on this ground the complaint is not maintainable. Prayer has been made for dismissal of the complaint and dropping of the proceedings qua accused no. 1 & 2.

In reply averments of the application have been denied and it has been submitted that instant complaint is legally maintainable having been filed by Ravi Jagwani as power of attorney holder of Malini Jagwani who is Proprietor of the complainant firm. It is further submitted that Ravi Jagwani is involved in day to day affairs of the complainant firm and is fully conversant with facts of the present case. It is further submitted that as far as the name of the Amrit Pal Singh is concerned it is submitted that letter 'R' has been inadvertently mentioned and the same is a clerical mistake. Prayer has been made for

dismissal of the instant application and further proceedings against the above said accused.

In nut shell the applicant/accused no. 1 & 2 has sought dropping of proceedings qua them on two grounds viz, firstly, the instant complaint is not legally maintainable on the ground that the same has been filed by one Ravi Jagwani in his individual capacity whereas the Proprietor of the complainant firm is not said Ravi Jagwani but his wife namely Malini Jagwani and secondly, on the ground that name of the signatory of the cheque has been wrongly mentioned. I am of the considered opinion that the instant complaint is very much legally maintainable placing reliance upon the judgment of the Hon'ble Supreme Court of India in the case referred to by the applicants themselves in para no. 3 of the application A.C. Narayanan Vs. State of Maharashtra (supra). Perusal of the complaint particularly the title of the complaint and the power of attorney would reveal that the complaint has been filed on behalf of the complainant firm through power of attorney holder namely Ravi Jagwani and he is merely filing the instant complaint as an agent of his wife namely Malini Jagwani who is Proprietor of the complainant firm as admitted by the applicant themselves. It cannot be said that the instant complaint is filed by Ravi Jagwani in his individual capacity. There is no denial to the fact that the said power of attorney holder namely Ravi Jagwani is not aware of the facts of the instant case and moreover, the same is a matter of evidence to be adduced during the course of trial. Merely, on the asking of the applicants/accused no. 1 & 2, a complainant cannot be thrown out on the very thresh hold on mere technicalities. It is the case of the complainant firm that the person namely Ravi Jagwani is a power of attorney of his wife namely Malini Jagwani and is aware of the facts of the instant case. In the case referred to above it is held by Hon'ble Supreme Court of India that the attorney holder can file a complaint on behalf of his principal initiating criminal proceedings on behalf of said principal and as per the facts of the instant complaint the

complaint has been filed by the complainant firm through Ravi Jagwani power of attorney of Malini Jagwani.

Secondly, it was contended by applicants that signatory of the cheque is not Amrit Pal Singh but Amit Pal Singh and therefore the complaint is not legally maintainable. I am of the opinion that the same is merely arithmetical mistake and does not go to the root of the matter. Moreover, applicants have themselves conceded that the said person is one and the same and he is the signatory of the cheque. As such, on this ground, it cannot be said that the complaint is not legally maintainable. As such, instant application is not maintainable and is hereby dismissed.

An exemption application has been filed on behalf of accused no. 1 & 2 through their counsel. Heard. In view of the reasons mentioned therein, same is allowed for today only.

Case is adjourned to 22.01.2025 for framing notice of accusation upon the accused persons.

Dated:03.01.2025

Diksha

(Abhay Rajan Shukla)
Judicial Magistrate Ist Class
SAS Nagar/UID No.PB0547