

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C.No.2371/2008 & CrI.M.A. No.8862/2008**
% **Date of decision: 28.07.2008**

M/s.Excellent Hoisery Products Petitioner
Through: Mr.Dilpreet Singh, Advocate.

Versus

Sh. Surender Bothra Respondent
Through : Nemo.

CORAM :-

* **HON'BLE MR. JUSTICE ANIL KUMAR**

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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The petitioner has impugned the order dated 1st February, 2008 of the Additional Sessions Judge dismissing the revision petition of the petitioner against the order dated 31st August, 2007 of the trial Court dismissing the application of the petition under Section 219 of the Criminal Procedure Code.

Learned counsel for the petitioner has contended that six cheques which are the subject matter of the complaint are separate transactions

and, therefore, a single complaint in respect of the said six cheques could not be filed. Learned counsel for the petitioner contends that the respondent in his examination has admitted that out of the six cheques, four cheques are for the amount of the bills and two cheques are not for the amount of the bills and this aspect has not been considered by the courts below and, therefore, the impugned order is liable to be set aside.

Reliance had been placed by the revisional court on 27(1) DCR 192, a judgment of Madras High Court holding that even though different cheques are given on different dates, the presentation of all cheques form the same transaction and if the demand is made by a single lawyer's notice and not several demands for the payment of dishonoured cheques, then the accused can be charged and tried at one trial for several such offences.

The respondent's contention is that six cheques were issued by the petitioner in order to discharge his outstanding balance and these six cheques are not bills wise. It is also contended that the material had been supplied to the petitioner on credit basis and a running account is maintained in the course of the business in respect of the material supplied to the petitioner.

It is not disputed that the trial has not concluded and only on the basis of this deposition that the amounts of four cheques correspond to the amounts of the bills it cannot be inferred that there was no current account between the parties. Whether there was a current account of

not, earlier transactions between the parties can also be considered and the inference as has been sought to be drawn by the petitioner cannot be drawn in the facts and circumstances to hold that there was no current account between the parties.

The learned counsel for the petitioner is unable to show any manifest or apparent error in the order of the Revisional court dated 1st February, 2008 and the order dated 31st August, 2007 of the MM so as to entail interference by this Court in exercise of its jurisdiction under Section 482 of the Criminal Procedure Code.

The petition is without any merit, in the facts and circumstances, and it is therefore dismissed.

July 28, 2008
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ANIL KUMAR, J.