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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 642/2011

M.SULEMAN BASHA Petitioner
Through Mr.Manjunath, Adv.

versus

ATLAS PRODUCTS LTD. Respondent
Through Mr.Ashish Pratap Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE V.K. SHALI

% **ORDER**
22.11.2011

1. This is a petition filed by the petitioner under Section 482 Cr.P.C. for quashing of a criminal complaint No.2775/2008 under Section 138 of Negotiable Instruments Act r/w Sec. 420 IPC titled M/s Atlas Products Ltd. Vs. M/s Mr.M.Suleman Basha.
2. The ground for quashing of the aforesaid complaint is that the complaint has been filed against M. Suleman Basha, proprietor/Manager of M/s M.B. Enterprises while as, the petitioner has placed on record, a certificate purported to have been issued by the Syndicate Bank, Karnataka in favour of M/s M.B.Enterprises showing the proprietor of the said enterprises as M.Chand Basha. The exact language of the said certificate reads as under :-

"This is with reference to your request dated

Signature Not Verified

Signing Date:23.08.2024 17:09:51
Certify that the digital and physical file have
been compared and the digital data is as per
the physical file and no page is missing.

26.11.2010 enquiring us about the issuance of cheques and statement of A/C. We wish to inform that we have issued you with the cheque book bearing cheque leaves 818076 to 818100 during 2005 in the name of M/s M.B. Enterprises and the authorized signature for the A/C is sri M.Chand basha. This is for your perusal."

3. It has been urged by the learned counsel for the petitioner that this clearly shows that M.Chand Basha is the proprietor of M/s M.D. Enterprises, therefore, the present complaint against Suleman Basha is not maintainable inasmuch as, he was not the person who was the holder of the account and nor has he issued the said cheques.
4. I have considered the submissions made by the learned counsel for the petitioner.
5. The petitioner has placed only a copy of the complaint on record. Para 1 reads as under:-

"1. That the present complaint is filed against the accused for the failure to make payment of money demanded by the complainant after dishonour of a cheque bearing no.818080 dated 22.7.2008 for a sum of ₹ 5,78,000/- (Rupees Five Lakh Seventy Eight Thousand only) drawn on Syndicate Bank, Gangavati, Distt. Koppal, Karnataka, towards part payment of outstanding due and payable by the accused to the complainant."

6. The title of the case shows that the complaint is filed by M/s Atlas Products Ltd. against Suleman Basha. The petitioner has not placed on record the pre-summoning evidence or the copy of

the cheque which would have clarified as to whether the averments which are made by the petitioner is supported by the pre-summoning evidence of the complainant or not. Even the cheque has not been placed on record. Therefore, the contention of the learned counsel for the petitioner that the certificate purported to have been issued by the bank in question which shows that M.Chand Basha is the proprietor of M/s M.B. Enterprises at best can be said to be self serving and, constituting his defence which has to be established before the Trial Court during the course of the trial. It cannot be a ground for quashing of the complaint which has been filed against the petitioner.

7. For the aforesaid reasons, I feel that the present petition is totally misconceived and accordingly, the same is dismissed. Since the petition has been filed under Section 482 Cr.P.C., the petitioner is burdened with cost of ₹5,000/-.



V.K. SHALI,J

NOVEMBER 22, 2011

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