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

\+ **CRL.M.C. No. 2055/2011**

% *Judgment delivered on: 22nd November, 2011*

MANISH KUMAR SHANDLAY ..... Petitioner
Through : Mr.Rajat Rathee & Mr.Kameshwar Gumber, Advs.

versus

BASANT INDIA LTD. ..... Respondent
Through : Mr. Vijay Agarwal, Adv.

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

1. Whether the Reporters of local papers may be allowed to see the judgment? No
2. To be referred to Reporter or not? No
3. Whether the judgment should be reported in the Digest? No

SURESH KAIT, J. (Oral)

1. At the outset, without adverting to the facts of the case, it is admitted proposition between the parties that respondent got issued the legal demand notice under Section 138 Negotiable Instrument Act, 1881, from Delhi.

2. Vide a judgment rendered by this Court on 09.09.2011 in Criminal Revision Petition No.170/2010 titled '*GE Capital Transportation Financial Services Ltd. v. Rahisuddin Khan*,'

jurisdiction aspect has been settled keeping the case of ***K. Bhaskaran v. S.B. Balan*** ***AIR 1999 SC 3762,*** into view, whereby five ingredients were decided for offences U/s 138 NI Act as under:-

> *"The Offence u/s 138 NI Act can be completed only with the concatenation of a number of acts. Following are the acts which are components of the said offence:-*
> *1. Drawing of the cheque,*
> *2. Presentation of the cheque to the bank,*
> *3. Returning the cheque unpaid by drawee bank,*
> *4. Giving notice in writing to the drawer of the cheque demanding payment of the cheque amount,*
> *5. Failure of the drawer to make payment within 15 days of the receipt of the notice.*
> *"----If the five different acts were done in different localities any one of the courts exercising jurisdiction in one of the five local areas can become place of trial for offence u/s 138 NI Act."*

3. It is pertinent to mention here that the aforesaid judgment passed by this court, has been subjected to challenge in ***Special Leave Petition (C) No.29044/2011 'Vinay Kumar Shailendra Vs. Delhi High Court Legal Services Committee & Anr.'*** and the Apex Court vide order dated 03.11.2009, while referring the matter to a larger bench, had directed *'Status quo, as on today, shall be maintained until further orders'.*

4. Keeping in view the aforesaid judgment dated 09.09.2011

passed by this Court, the present petition is dismissed.

5. In view of petition having been dismissed, Crl. M.A. No.7396/2011 becomes infructuous and accordingly dismissed as such.

6. No orders as to costs.

SURESH KAIT, J

November 22, 2011
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