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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 3685/2012

MAHARAJI EDUCATIONAL TRUST & ANR. Petitioners

Through: Mr. J.S. Bhasin, Advocate with
Ms. Rashmi Priya, Advocate.

versus

**HOUSING & URBAN DEVELOPMENT
CORPORATION LTD. Respondent**

Through: Mr. A.K. Singh, Advocate with
Mr. Garud M.V., Advocate.

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Date of Decision: 18th October, 2012

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J (ORAL):

Crl.M.A. 18024/2012 (exemption) in Crl.M.C. 3685/2012

Allowed, subject to just exceptions.

Accordingly, the application stands disposed of.

Crl.M.C. 3685/2012 & Crl.M.A. 18023/2012

1. Present petition has been filed under Section 482 Cr.P.C. seeking quashing of Criminal Complaint case under Section 138 of the Negotiable Instruments Act, 1881 filed by respondent and for setting aside the

Metropolitan Magistrate's order dated 09th May, 2012 whereby the petitioner's application for compounding of offence was dismissed.

2. Briefly stated the relevant facts of the present case are that petitioner had taken a loan of ₹ 75 crores from a Public Sector Undertaking, namely, Housing & Urban Development Corporation Limited (hereinafter referred to as 'HUDCO') in the year 1996. Till date the principal sum has not been paid by the petitioner to respondent-HUDCO.

3. Learned counsel for petitioner states that the cheque in question had only been issued for a sum of ₹ 11.90 crores. He points out that the cheque amount has now been deposited with the trial Court and since the said sum has been withdrawn by respondent-HUDCO, the trial Court has committed an error in not compounding the matter.

4. This Court has been informed by learned counsel for respondent-HUDCO that DRAT has passed a decree in excess of ₹ 324 crores against the petitioner which has attained finality. Learned counsel for respondent-HUDCO states that even after the cheque amount of ₹ 11.90 crores had been deposited, the Supreme Court had dismissed the petitioner's Special Leave petition challenging the summoning order.

5. Having heard the learned counsel for parties, this Court is of the view that Section 482 Cr.P.C. power has to be exercised by the Court only to prevent abuse of process of Court or otherwise to secure the ends of justice.

6. In the present case, since admittedly even the principal debt of a Public Sector Undertaking has not been paid despite lapse of more than sixteen years, this Court is of the view that the present petition should not be entertained in exercise of its inherent power.

7. This Court is also in agreement with the view of the trial Court that no compounding can take place without the consent of respondent company.

8. Moreover, as the Supreme Court has already dismissed the petitioner's Special Leave petition seeking quashing of summoning order on the same ground of repayment, this Court is of the view that present petition amounts to re-litigation.

9. Accordingly, present petition and pending application are dismissed with costs of ₹ 1,00,000/- to be paid to the Delhi Legal Services Authority within a period of four weeks.

MANMOHAN, J

OCTOBER 18, 2012

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