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

% **Date of decision: July 24, 2023**

+ **CRL.M.C. 4263/2019 & CRL.M.A. 34538/2019**

SH. SANJEEV NARULA Petitioner
Through: Mr. Hardik Sharma and
Mr. Pankush Goyal, Advocates.

versus

M/S WOODCRAFTS FURNISHERS Respondent
Through: Mr. Karan Sharma, Advocate.

CORAM:
HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

J U D G M E N T (oral)

1. The present petition is filed under section 482 Cr.P.C. to impugn the order dated 11.04.2019 passed by the court of Ms. Neha Pandey, MM, Tis Hazari Courts in CC bearing no. 13127/2016 titled as **M/s Woodcrafts Furnishers V M/s Lilliput Kidswear Ltd and Others**.

2. The respondent filed a complaint under section 138 of the Negotiable Instruments Act, 1881 titled as **M/s Woodcrafts Furnishers V M/s Lilliput Kidswear Ltd and Others** bearing CC no. 13127/2016 in which the petitioner was named as accused no. 2.

3. The petitioner/accused no. 2 on 11.04.2019, when asked to cross-examine the complainant by the trial court, preferred to file an application under section 91 Cr.P.C. to summon the Official Liquidator along with the relevant records. The said application was



dismissed vide impugned order dated 11.04.2019 by the trial court by observing that vide earlier order dated 20.01.2017 also the trial court had dismissed a similar application filed to summon the Official Liquidator. Further, the documents sought to be summoned could be summoned at the time of defence evidence. It was further observed that details of the documents sought to be summoned have not been mentioned in the application under section 91 Cr.P.C.

4. The counsel for the petitioner/accused no. 2 stated that in an earlier application, which was stated to be dismissed vide order dated 20.01.2017 by the concerned trial court, the petitioner/accused no. 2 sought to summon the Official Liquidator but in the subsequent application which was dismissed vide the impugned order, the documents from the Office of the Official Liquidator were sought to be summoned. He further argued that if these documents were permitted to be summoned at the time of defence evidence, at that time, the petitioner/accused no. 2 would not get any opportunity to cross-examine the complainant on the basis of these documents. The counsel for the respondent/complainant does not have any objection if the said application is allowed.

5. The petitioner/accused no. 2 is having an inherent right to cross-examine the complainant on the basis of the documents, which are considered as necessary documents by the petitioner/accused no. 2 during the trial. There is force in the argument advanced by the counsel for the petitioner/accused no. 2 that if those documents are only allowed to be summoned at the time of defence evidence, at that time, he would not have opportunity to put the documents sought to be



summoned to the complainant at the time of his cross-examination. However, the petitioner/accused no. 2 has not mentioned details of the documents sought to be summoned from the Office of the Official Liquidator.

6. After considering all facts, the present petition is allowed. The petitioner/accused no. 2 is permitted to summon the documents from the Office of the Official Liquidator on taking necessary steps as per law before the concerned trial court during the cross-examination of the complainant. However, the petitioner/accused no. 2 is directed to place on record of the trial court the list of the documents sought to be summoned from the Office of the Official Liquidator before summoning of those documents for cross-examination of the respondent/complainant.

7. The present petition along with pending applications, if any, stands disposed of.

(DR. SUDHIR KUMAR JAIN)
JUDGE

JULY 24, 2023

N/AM