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

Date of Decision: July 13, 2015

\+ **CRL.M.C. 2712/2012**

VANDAN BALI ..... Petitioner

Through: Mr. Anwesh Madhukar, Advocate

versus

STATE & ANR. .....Respondents

Through: Ms. Nishi Jain, Additional Public Prosecutor for respondent-State
Mr. Rajneesh Sood and Mr. Gurpreet Singh, Advocates for respondent No.2

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
% **(ORAL)**

Quashing of complaint under Section 138 of *the Negotiable Instruments Act, 1881* pertaining to dishonour of cheque of ₹80,000/- issued by petitioner in terms of *Training-cum-Employment Agreement* of 19th March, 2010, is sought on merits in this petition.

At the hearing, learned counsel for petitioner had placed reliance upon Apex Court's decisions in *M/s. Indus Airways Pvt. Ltd. & Ors. v. M/s. Magnum Aviation Pvt. Ltd. & Anr.* IV (2014) SLT 321 and *HMT Watches Ltd. v. M.A. Abida & Anr.* 2015 SCC Online SC 233 to submit that the cheque in question was issued as security cheque, which does not come within the purview of *the Negotiable Instruments Act, 1881.*

On the other hand, learned counsel for respondent No.2-complainant strongly refutes the contention of petitioner that the cheque in question was a security cheque and submits that the decisions in *M/s. Indus Airways (supra)* and *HMT Watches (supra)* have no application to the facts of the instant case. Reliance is placed upon Apex Court's decision in *Anil Kumar Sawhney v. Gulshan Rai* 1993 (4) SCALE 114 to submit that the cheque in question was admittedly undated and so, it cannot be termed as a post-dated cheque and it remains a bill of exchange only and when the date was put on the cheque in question, there was an existing liability of petitioner as he had left the employment of respondent without any justified reason and so, in terms of the *Training-cum-Employment Agreement*, respondent-complainant has a right to forfeit the amount of the cheque in question.

Upon hearing and on perusal of the complaint, the *Training-cum-Employment Agreement* in question and the decisions cited, I find that the reliance placed by learned counsel for petitioner upon decisions in *M/s. Indus Airways (supra)* and *HMT Watches (supra)* is clearly misplaced as in the instant case, the cheque in question was undated and when the date was put thereon, a prima facie liability on the part of petitioner to pay the cheque amount existed.

In the considered opinion of this Court, no case for quashing of the complaint in question is made out. This petition is dismissed while refraining to express any opinion on merits lest it may prejudice petitioner at trial, which be concluded with expedition.

(SUNIL GAUR)
JUDGE

JULY 13, 2015
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