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

+ CRL.M.C. 2201/2016 & Crl.M.A. 9270/2016

KAPIL VIJ

..... Petitioner

Represented by: Mr. O.P. Singh, Adv.

versus

THE GOVT OF NCT OF DELHI & ANR

..... Respondent

Represented by: Mr. Ashok Kumar Garg, APP
for the State.

Mr. Dharam Pal, husband of R-
2.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

21.10.2016

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1. The petitioner has been summoned as an accused in complaint case No.7167/2013 vide order dated 14th January, 2013. The petitioner filed a revision petition being Crl.Revision No.177/3/15 before learned Additional Sessions Judge challenging the order summoning which was dismissed by the learned Additional Sessions Judge vide the impugned order. The complaint against the petitioner is of dishonour of cheque bearing No.231292 dated 25th October, 2012 for ₹44 lakhs.

2. In the complaint, the complainant alleged that the petitioner joined the Committee (finance pooling) for which monthly instalments were fixed. In order to ensure payments of all the shares of the members, the group of members were liable to provide post-dated cheques in the name of the fund manager. During the passage of time from July, 2011 the petitioner withdrew the amount of his shares from the groups and handed over post-dated cheques to ensure remaining balance payment which was due to him in respect of

shares. The petitioner was liable to pay ₹44 lakhs subject to all the adjustments. To discharge the said liability, the petitioner handed over post dated cheque No.231292 dated 25th October, 2012 for ₹44 lakhs which when presented was dishonoured vide cheque return memo dated 30th October, 2012 noting 'insufficient funds'. Legal notice was sent however despite service of legal notice, the petitioner did not pay or tender the balance amount. Hence the complaint was filed.

3. Learned counsel for the petitioner submits that respondent No.2 is running a chit fund sans registration and thus there was no legal liability of the petitioner to pay the debt. Further no safeguards as provided under the Chit Fund Act were maintained and there was no legal sanctity of the Committee.

4. The issues urged by learned counsel for the petitioner can be decided only after the parties have led the evidence and at this stage when summons are issued, the averments in the complaint were only required to be looked into by the learned Trial Court which having taken into consideration all the facts stated in the complaint and deposed on affidavit rightly issued summons to the petitioner. Whether a legal liability arose or not can be decided on evidence of the parties. Hence I find no reason to interfere with the order dated 14th January, 2015 summoning the petitioner or the impugned order dated 20th February, 2016 dismissing the revision petition.

5. Petition is dismissed.

MUKTA GUPTA, J.

OCTOBER 21, 2016

'vkm'