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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**
Decided on: 16th July, 2018

+ CRL.M.C. 862/2016
M/S.MIDEAST INTEGRATED STEELS LTD.
& ANR. Petitioners

Through: Mr. Kawal Nain, Advocate

versus

M/S. HEAVY ENGINEERING CORP. LTD. Respondent
Through: Mr. Aseem Swaroop, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioners are facing criminal prosecution in the complaint case (CC no.776/2014) under Section 138 of the Negotiable Instruments Act, 1881 at the instance of the respondent. They seek to invoke the inherent jurisdiction of this court under Section 482 of the Code of Criminal Procedure, 1973 (Cr. PC) and Article 227 of the Constitution of India to pray for quashing of the proceedings in the said criminal case and also of order dated 04.02.2016 whereby the prayer of the petitioners under Section 147 of the Negotiable Instruments Act, 1881 for compounding of the offence under Section 138 of the Negotiable Instruments Act, 1881 was dismissed.

2. It does appear from the copy of the proceedings recorded on some of the dates of hearing before the trial court, commencing with order dated 02.11.2012, that the parties had engaged each other to amicably settle and resolve the dispute on which account

adjournments, as prayed, were granted. It also does appear that payment of 50% of the cheque amount (the principal) on account of settlement of some terms was also reported to the Magistrate as recorded in the proceedings of 10.05.2013. But then, the other proceedings do show that the dispute was not fully resolved as some areas including the interest liability remained outstanding.

3. It is against this backdrop that the petitioners by their application under Section 147 of the Negotiable Instruments Act, 1881 pray for the case to be treated as compounded.

4. The application was resisted by the respondent complainant and eventually rejected by the Magistrate by order dated 04.02.2016.

5. This court having heard the counsel on both sides and having gone through the record, finds no error, irregularity or illegality in the impugned order. The complainant in a criminal case cannot be compelled against the above backdrop to compound the offence. His claim (towards balance principal and interest) remains outstanding and without such claim having been fully resolved to his satisfaction, there can be no forced compounding. The composition of an offence necessarily requires as a pre-condition, free will and volition of each side.

6. The petition is, thus, devoid of substance and is dismissed. The pending application consequently stands dismissed.

R.K.GAUBA, J.

JULY 16, 2018/yg