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

+ CRL.M.C. 3437/2015 & Crl.M.A. 12285/2015 (stay)

MAHESH MUNJAL ..... Petitioner

Through: Ms. Gurkamal Hora Arora, Adv.

versus

FORCE TECH SECURITY (INDIA) PRIVATE LIMITED

..... Respondent

Through: Mr. Vikas Mehta, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE R.K.GAUBA**

**ORDER**

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**06.09.2018**

The petitioner was summoned by the court of Metropolitan Magistrate by order dated 22.12.2014 in the criminal case (CC No. 2619/1/14) instituted by the respondent alleging offence punishable under Section 138 of the Negotiable Instruments Act, 1881 on account of non-payment of cheques described in notice, after dishonour of two cheques, they bearing nos. 913005 dated 30.09.2014 and 913006 dated 15.10.2014 each of Rs.33,000/- drawn against the account maintained with ICICI Bank, Connaught Place Place-II Branch, Kasturba Gandhi Marg, New Delhi-110001. The petitioner is described in the criminal case as one of the directors of M/s De Core Science & Technologies Ltd., the claim of the complainant (respondent) being against the said company.

The petitioner is described in the complaint as one of the directors of the said company, he having been summoned with reference to the provision contained in Section 141 of the Negotiable Instrument Act, 1881. The

contention of the petitioner is that he is neither signatory to the cheque nor was one of the directors who would be responsible for the affairs or management of the company, reliance being placed, *inter alia*, on *Jwala Devi Enterprises Pvt. Ltd. v/s Fadi EL Jaouni* 2018 SCC Online Del 10030, *SMS Pharmaceuticals Pvt. Ltd. v/s Neeta Bhalla* (2005) 8 SCC 89, *Standard Chartered Bank v/s State of Maharashtra and Ors.* (2016) 6 SCC 62 and *Gunmala Sales (P) Ltd. v/s Anu Mehta and Ors* (2015) 1 SCC 103

The learned counsel for the respondent at the hearing fairly concedes that in view of the afore-mentioned rulings, there being nothing to show that the petitioner was one of the directors in charge of or responsible for the day-to-day affairs of the company accused, a case under Section 141 of the Negotiable Instrument Act, 1881 for he to be prosecuted for the offence under Section 138 of the said law cannot be made out. He, thus, fairly concedes, on instructions, that the prayer in the petition may be granted.

The petition is allowed. The summoning order dated 22.12.2014 passed by the Metropolitan Magistrate in the afore-mentioned complaint against the petitioner to the extent thereby the petitioners stood summoned as accused stands set aside.

This disposes of the pending application as well.

**R.K.GAUBA, J.**

**SEPTEMBER 06, 2018/uj**