



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved On: October 17, 2023

Pronounced On: October 31, 2023

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CRL.M.C. 1639/2021 & CRL.M.A. 11500/2021

GUNEET BHASIN

..... Petitioner

Through: Mr. Deepak Bashta, Advocate

Versus

THE STATE NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Sunil Kumar Gautam, APP for State.

Mr. Sonal Anand, Mr. Aayush Sai and Ms. Surbhi Singh, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. By way of the present petition under Section 482 of the Code of Criminal Procedure, 1973 [*CrPC*], the petitioner seeks setting aside and quashing of Complaint Case No.7398/2019 under Section 138 of the Negotiable Instruments Act, 1881 [*NIA*] filed by the respondent no.2/ complainant [*respondent no.2*] against the petitioner/ accused no.2 therein [*petitioner*] and 3 other co-accused persons before the learned Metropolitan Magistrate [*learned MM*] and summoning order dated 04.10.2019 passed therein.

2. The facts disclose that the respondent no.2 first invested Rs.50,00,000/- in January 2009 and then again invested Rs.20,00,000/- in March 2014 with the petitioner and was assured a return of double the amount on or before March 2019. Thereafter, the petitioner issued a



Promissory Note dated 18.02.2019 in favour of the respondent no.2 and his wife Ms. Rupinder Kaur Bedi [**wife**] acknowledging his liability to pay Rs.2,47,53,000/- to them on or before 30.06.2019.

3. The petitioner then issued as many as 9 cheques all dated 16.07.2019, of which, *admittedly*, 6 cheques were in the name of the respondent no.2 whereas rest of the 3 cheques were in the name of his wife. All the said 9 cheques to the tune of Rs.73,00,000/- were dishonoured on presentation with the details given below:-

S.No.	In favour of	Cheque No.	Amount	Reason for dishonour
1.	Amrit Pal Singh Bedi	666437	Rs. 6,00,000/-	"Account closed"
2.	Amrit Pal Singh Bedi	666436	Rs. 6,00,000/-	"Kindly contact drawer/draw"
3.	Amrit Pal Singh Bedi	103122	Rs. 10,00,000/-	"Kindly contact drawer/draw"
4.	Amrit Pal Singh Bedi	103121	Rs. 10,00,000/-	"Kindly contact drawer/draw"
5.	Amrit Pal Singh Bedi	935698	Rs. 8,00,000/-	"Kindly contact drawer/draw"
6.	Amrit Pal Singh Bedi	666435	Rs. 6,00,000/-	"Kindly contact drawer/draw"
7.	Rupinder Kaur Bedi	666434	Rs. 8,50,000/-	"Kindly contact drawer/draw"
8.	Rupinder Kaur Bedi	666433	Rs. 8,50,000/-	"Kindly contact drawer/draw"
9.	Rupinder Kaur Bedi	103120	Rs. 10,00,000/-	"Kindly contact drawer/draw"

4. Thereafter, the respondent no.2 and his wife issued a composite Legal Notice dated 12.08.2019 qua all the 9 cheques, which was replied by the petitioner on 27.08.2019, being unsatisfied by the same, the respondent no.2 filed a Complaint Case No.7398/2019 under Section 138



NIA with respect to all the aforesaid 9 dishonoured cheques before the learned MM, accompanied with an 'Authority Letter' dated 17.08.2019 executed by the wife of the respondent no.2 in his favour wherein, the learned MM passed the summoning order dated 04.10.2019.

5. Thereafter, the petitioner filed the present petition directly before this Court.

6. According to the petitioner, the composite complaint qua all the 9 cheques by the respondent no.2 singularly, sans his wife, is *per se* not maintainable. It is also not maintainable on the strength of the 'Authority Letter' dated 17.08.2019 issued by his wife in favour of the respondent no.2. Moreover, the petitioner has also challenged the veracity of the said 'Authority Letter', the execution thereof and the phraseology used therein. The petitioner, in the wake of the above, contended that the impugned order passed by the learned MM issuing summons to the petitioner is liable to be set aside. Reliance was placed on ***O.P. Mehra vs. Raj Kumar Bhalla & Anr.*** 2006 SCC OnLine P&H 1074.

7. Learned counsel for the petitioner submitted that in view of the aforesaid, the complaint is against the statutory principles contained under Section 142 NIA, as the respondent no.2 herein, not being either the payee or the holder in due course, cannot file the abovementioned complaint. Reliance was placed on ***Suresh Sharma Vs. New Coolwell Industries & Ors.*** 2009 (108) DRJ 347 and ***Milind Shripad Chandurkar Vs. Kalim M. Khan & Anr.*** (2011) 4 SCC 275.

8. Learned counsel for the petitioner further submitted that the bank memo or the slip cannot be taken into consideration as the same is not certified by the bank in terms of Section 146 NIA. Reliance was placed on the order dated 08.08.2018 passed by the Bombay High Court in



Criminal Appeal 360/2017 titled *Vandana vs Abhilasha*.

9. Learned counsel for petitioner lastly submitted that a single complaint under Section 138 NIA qua all the 9 cheques is not maintainable, as they cannot be clubbed together in view of Section 219 CrPC. Reliance was placed on *Vani Agro Enterprises vs. State of Gujarat and Anr.* 2019 SCC OnLine SC 2002.

10. *Per contra*, learned counsel for the respondent no.2 submitted that the complaint under Section 138 of the NIA filed by the respondent no.2 before the learned MM is very much maintainable in the present form and there is no infirmity in issuance of the summoning order therein. It is further submitted that the 'Authority Letter' has been properly executed and satisfies all the ingredients thereof as everything is arising out of the same transaction and it is a case involving a husband and his wife.

11. Highlighting the background of the litigation inter-se the parties herein, the learned counsel for the respondent no.2 submitted that the learned MM issued the impugned summoning order to all the 4 accused persons therein, namely accused no.1: International Trenching Private Limited, which is a Company; accused no.2: Mr. Guneet Bhasin, who is a Director of accused no.1 and also the signatory of all the aforesaid 9 cheques and *most importantly the petitioner herein*; accused no.3: Mr. Sumit Bhasin, who is also a Director of the accused no.1; and accused no.4: Mr. Summy Bhasin, who is a Finance Manager of the accused no.1. *Admittedly*, out of 4 accused therein, accused nos.3 and 4 filed revision petitions raising the very same grounds before the learned District & Sessions Judge, which were dismissed vide a common order dated 16.01.2020. Aggrieved thereby, accused nos.3 and 4 filed petitions under Section 482 CrPC before this Court, which were also dismissed vide



separate orders, both dated 10.03.2021. Thereafter, accused no.4 filed SLP (CrI.) 194/2022 titled *Summy Bhasin vs State of NCT of Delhi & Anr.* before the Hon'ble Supreme Court, wherein vide order dated 21.01.2022, it was directed that “*the proceedings qua the petitioner alone shall remain stayed*”.

12. In view of the aforesaid, the learned counsel for the respondent no.2 submitted that all the similar issues raised in the present petition have already been adjudicated and decided earlier by this Court and the petitioner is merely trying to delay the proceedings by hoodwinking this Court.

13. This Court has heard the learned counsels appearing for the parties and has also perused the documents on record and has also taken note of all the contentions raised during the arguments and those made in the pleadings including the written synopsis along with the judgments therewith.

14. Records reveal that the petitioner has nowhere disputed the execution of a ‘Promissory Note’, in his handwriting, under his signatures, acknowledging his liability of the debt to the respondent no.2 and his wife. Similarly, the petitioner has also nowhere disputed the factum of issuance of any of the aforesaid 9 cheques or his signatures thereon or his handwriting thereon. So much so, the petitioner has also nowhere denied that there is no liability/ debt against the aforesaid 9 cheques. It is also nowhere denied that all the aforesaid 9 cheques were [i] pertaining to the very same transaction; [ii] issued on the same date; and [iii] returned on the same date by the very same Bank. Even though each of the above factors were/ are extremely vital for consideration, *however*, there are no averments qua them. Also, it is trite law that this



Court is to sparingly exercise its powers under Section 482 CrPC and with utmost care and caution, when a party approaching this Court, is able to demonstrate reasonable grounds for the Court to exercise such powers [*Re: Parbatbhai Aahir & Ors. vs. State of Gujrat & Anr.* (2017) 9 SCC 641; *Kaptan Singh vs. State of Uttar Pradesh* 2021 SCC OnLine SC 580]. A perusal of the pleadings made by the petitioner herein also disclose that there is no such averment exhibiting any special cause and/or reason made anywhere before this Court to exercise its inherent powers under Section 482 CrPC.

15. It is also an admitted position that though a composite legal notice qua all the aforesaid 9 cheques involved was issued by both the respondent no.2 and his wife but the complaint under Section 138 NIA qua the said 9 cheques was filed by the respondent no.2 only, albeit on the strength of an 'Authority Letter' issued by his wife for 3 cheques which were in favour of his wife namely Rupinder Kaur Bedi.

16. With respect to issue(s) of the execution of the 'Authority Letter', the phraseology used therein as also the same being improperly executed, non-filing of the complaint under Section 138 NIA by the wife of the respondent no.2, respondent no.2 not being either the payee or the holder in due course, and non-certification of the bank memo or the return slip by the bank, in the opinion of this Court, the aforesaid being disputed questions of facts, require trial and due adjudication by the learned Trial Court and not by this Court and that too at this stage, whence the learned MM is already seized of the complaint and has merely passed the summoning order.

17. In the opinion of this Court, if this Court proceeds to consider the aforesaid issues, it would tantamount to holding a mini trial, which as per



trite law and under the facts and circumstances involved herein, is *per se* not permissible under Section 482 CrPC, especially whence the trial before the learned MM is ongoing. This Court cannot substitute or carry out the functions of the learned Trial Court. In any event, considering that the proceedings before the learned MM are at a very nascent stage, it would be improper for this Court to enter the merits of the Complaint Case. Taking such a view at this stage will be too hyper-technical and such an approach is not to be adopted for quashing criminal proceedings [Re.: *Monaben Ketanbhai Shah & Anr. vs. State of Gujarat & Ors.* (2004) 7 SCC 15].

18. Moreover, the petitioner has not filed a review petition under Section 397 CrPC and has instead directly approached this Court by way of the present petition under Section 482 CrPC. This is despite the fact that 2 other co-accused had earlier filed review petition under Section 397 CrPC before approaching his Court under Section 482 CrPC.

19. The rest of judgements cited by the learned counsel for the parties being immaterial are not being considered by this Court.

20. Taking a holistic view of all the above factors as entailed above, in the opinion of this Court, the petitioner has not been able to make out a case for invoking its powers under 482 of the CrPC. More so, whence the present petition has been filed on technical grounds wherein almost more than 2 years have elapsed and the issues raised therein are a matter of trail. As per this Court, the present petition seems to be motivated to somehow delay and derail the proceedings/ trial before the learned MM. Thus, the present petition is a fit one calling for not only dismissal but also for imposition of costs.

21. Accordingly, the present petition along with the application is



dismissed with costs of Rs.50,000/- to be paid in favour of the Delhi State Legal Services Committee within a period of *two weeks*. Proof whereof to be deposited before the learned MM thereafter.

SAURABH BANERJEE, J.

OCTOBER 31, 2023
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