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

+ **CRL.M.C. 181/2024**

M/S ALOKE FIBRE TECH PVT LTD

..... Petitioner

Through: Mr. Balvinder S. Mouji, Advocate.

versus

MR RAGHAV BANSAL & ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

09.01.2024

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CRL.M.A. 737/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. The present petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of the petitioner seeking the following relief:

- a. "Set aside the impugned order dated 10.07.2023 passed by the Learned Court of Shri Sourabh Goyal, Metropolitan Magistrate (South), Saket Courts, Delhi in the case bearing CC NI ACT/5029/2023, titled as "M/s Alope Fibre Tech Pvt. Ltd. Versus Raghav Bansal and Anr." to the extent summons of complaint have not been issued against Respondent no.3 herein;
- b. Set aside the impugned order dated 25.11.2023 passed by the Learned Court of Shri Anshul Singhal Metropolitan Magistrate (South), Saket Courts, Delhi, in the case bearing CC NI ACT/5029/2023, titled as "M/s Alope Fibre Tech Pvt. Ltd. Versus Raghav Bansal and Anr." to the extent it has dismissed the application moved by Petitioner with exorbitant costs of Rs.



10,000/- and had refused to issue summons against respondent no.3/accused no.3;

- c. Costs of Rs. 10,000/- imposed vide order dated 25.11.2023 may kindly be waived;
- d. Summons of complaint may be directed to be issued against Respondent no.3 as well.....”

4. Learned Counsel appearing on behalf of the petitioner submits that *vide* the impugned order dated 10.07.2023, the learned Trial Court was pleased to issues summons against respondent no. 1 and 2 only but not against respondent no. 3, ignoring the amended memo of parties filed by the petitioner before the learned Trial Court and thereafter *vide* order dated 25.11.2023 the learned Trial Court had dismissed the application filed by the petitioner wherein it was prayed that a physical copy of the amended memo of parties be taken on record and to issue summons to respondent no.3.

5. Learned counsel appearing on behalf of the petitioner also invites this Court’s attention to the following paragraphs of the impugned order dated 25.11.2023, which are reproduced as under:

“ The amended memo of parties was to be filed within 7 days from 09.11.2023 however, same has not been so filed and no application for condonation of delay has been filed on behalf of the complainant. However, still taking the lenient view, physical copy of amended memo of parties is hereby taken on record.

It is to be noted that this court is neither a Revisionist Court nor a Appellate Court and does not have the power to review and recall its orders. If the complainant is aggrieved from order 10.07.2023 of this court then the appropriate course of action would have been to file an appeal or revision as per law however, complainant has chosen to file the present application.”

6. This Court has heard arguments on behalf of the learned counsel for the petitioner and has perused the material placed on record.



7. This Court, having considered the overall facts and circumstances of the case, also takes note of the fact that that Court of the learned Magistrate is a digital court, and therefore there might have arisen a confusion regarding taking on record the amended memo of parties which even the petitioner could not have known, as to whether the same had been taken on record or not, and also the fact that he is the complainant before the learned Trial Court.

8. In view of the above, the order dated 25.11.2023 passed by the court of Metropolitan Magistrate (South), Saket Courts, Delhi, in case bearing no. CC NI Act/5029/2023 titled as “*M/S Alope Fibre Tech Pvt. Ltd. v. Sh. Raghav Bansal & Anr.*” is set aside. The costs of Rs. 10,000/- imposed *vide* order dated 25.11.2023, on the petitioner is waived off. It is directed that petitioner’s amended memo of parties be taken on record by the learned Trial Court.

9. No further relief is prayed for.

10. The petition is accordingly disposed of.

11. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 9, 2024/at

[Click here to check corrigendum, if any](#)