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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 229/2023, CRL.M.A. 946/2023**

**BEYOND TELE PRIVATE LIMITED AND
ANOTHER**

.....Petitioners

Through: Mr. Praveen Suri and Mr. Sagar
Nandwani, Advocates.

versus

**MICROMAX INFORMATICS LIMITED AND
ANOTHER**

.....Respondents

Through: Mr. Mudit Sharma, Ms. Nandini
Sharma, Mr. Parvez Alam Khan and
Ms. Neha Yadav, Advocates.

**CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

ORDER
29.07.2024

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1. By way of the present petition, the petitioners seek setting aside of the order dated 06.12.2022 passed by Ld. ASJ in Criminal Revision Petition No.77/2020 as well as quashing of order dated 05.12.2019 passed by Ld. MM in Complaint Case bearing No.5618/2019.
2. During the course of submissions, the only contention raised by the learned counsel for the petitioner is that the petitioners' liability was lesser than the amount mentioned in the impugned cheque. It is stated that while the liability was only of Rs.23,52,018/-, the subject cheque was presented for Rs.24 lacs. In support of his contention, learned counsel has referred to certain emails exchanged between the parties. It is also stated that the said emails were made part of the original reply filed to the legal notice;



however, no concrete response has come in response denying those emails. In this regard, petitioners have also referred to the ledgers showing the liability amount of Rs.24 lacs.

3. Petition is resisted by the counsel for the respondents by contending that the petitioners have admitted their signatures on the subject cheque which was presented for the liability mentioned therein in the cheque.

4. The issue that arises for consideration is whether, while adjudicating a petition under Section 482 Cr.P.C., the Court can go into the issue as to whether the cheque in question is given towards security or towards discharge of any debt or liability and that it has been misused. The powers of High Court under Section 482 Cr.P.C. can be exercised subject to either admitted position or documents of incontrovertible in nature.

5. Considering that while the petitioners rely on the emails, the respondents rely on the ledger to prove the liability of the petitioners. The disputes being factual in nature are at best left open to be urged before the Trial Court where necessary evidence is to be led to prove the said documents. Recently in Sunil Todi v. State of Gujarat reported as (2021) SCC OnLine SC 1174, the Court while relying on a decision in HMT Watches Ltd. v. M.A. Abida & Anr. reported as (2015) 11 SCC 776 observed that whether a cheque is given towards security or otherwise or whether there existed an outstanding liability is a question of fact, which is to be determined at the trial on the basis of evidence. The Court further emphasised that the above being a disputed question of fact cannot be resolved in the proceedings under Section 482 Cr.P.C. More recently, in Rathish Babu Unnikrishnan v. The State (Govt. of NCT of Delhi) & Anr. reported as (2022) SCC OnLine SC 513, the Court again highlighted that



such a determination could only be carried out in a trial.

6. In view of the aforesaid discussions, petition is dismissed alongwith pending application.

MANOJ KUMAR OHRI, J

JULY 29, 2024

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