



\$~25

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 766/2022 & CRL.M.A. 3199/2022**
M/S SHREE RAM ENTERPRISES & ANR.

..... Petitioners

Through: Mr. Mayank Mehandru, Adv.

versus

M/S DEAKIN WIRES INDUSTRIES

..... Respondent

Through: Mr. Vikas Bhatia & Mr. Akash
Bhardwaj, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

%

02.04.2024

1. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973, (in short, 'Cr.P.C.') praying for quashing of Complaint Case No. 535858/2016 titled *M/s Deakin Wire Industries v. M/s Shree Ram Enterprises & Another.*, which has been filed by the respondent no.2/complainant under Section 138 of the Negotiable Instruments Act, 1881 (in short, 'NI Act') against the petitioners herein.

2. The learned counsel for the petitioners submits that in the course of the cross-examination of the partner of the respondent, Mr. Mr. Amit Sachdeva (CW-1), the witness has admitted that not only the initial notice dated 14.09.2015, purported to be sent in terms of the proviso to Section 138 of the NI Act, wrongly addressed to the petitioner through Mr. Surinder Gupta as its proprietor, but also that the respondent itself is not a company incorporated under the



Companies Act, 1956. He submits that therefore, this notice cannot satisfy the condition stipulated in the Proviso to Section 138 of the NI Act.

3. He submits that though a corrigendum notice dated 08.10.2015 was later issued by the petitioner, correcting the notice to the petitioner through its proprietor, Mr. Satinder Gupta, the mistake as far as the respondent being reflected as a company incorporated under the Companies Act, remained. He submits that in any case, the corrigendum had been issued beyond the period of 30 days of the return of the cheque and, therefore, is not in due compliance with the proviso to Section 138 of the NI Act.

4. In my view, as the above discrepancies are being discovered in the course of the cross-examination of a witness, the effect thereof has to be considered by the learned Trial Court itself at the conclusion of the trial and on appreciating the entire evidence led before it. A piecemeal examination of evidence would not justify quashing of the complaint. A complaint cannot be dismissed midway as not maintainable only on basis of the statement of one of the witness, while the evidence is being still recorded.

5. Accordingly, I find no reason to exercise the inherent jurisdiction of this Court under Section 482 Cr.P.C. at this stage of the complaint proceedings.

6. The petition is dismissed.

7. However, it is made clear that all the submissions of the petitioner shall remain open to be agitated before the learned Trial Court at an appropriate stage.



8. The learned counsel for the respondent undertakes that the cost imposed by this Court vide order dated 04.12.2023 shall be paid to the petitioner before the learned Metropolitan Magistrate where the complaint is pending adjudication.
9. The respondent shall remain bound by the said statement.

NAVIN CHAWLA, J

APRIL 2, 2024/rv/RP

Click here to check corrigendum, if any