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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1660/2023**

KARAN BAHADUR TAMANG Petitioner
Through: **Mr. Anish Shrestha, Advocate.**

versus

STATE OF GOVT OF NCT DELHI & ANR. Respondents
Through: **Mr. Aashneet Singh, APP for State**
Mr. Prem Chhetri, Advocate for
respondent No.2.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
09.05.2024

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1. By way of present petition filed under Section 482 Cr.P.C., the petitioner seeks quashing of Complaint Case No. 36945/2019 instituted under Section 138 of the N.I. Act and pending before Ld. M.M., Dwarka Courts, New Delhi.

2. Learned counsel for the petitioner has premised the present petition on two grounds.

Firstly, it is contended that the complaint is not maintainable, inasmuch as, the demand notice was issued beyond the statutory period. Secondly, it is contended that there was no debt or legal liability existing on the date when the subject cheque was presented. In support of the second ground, he has referred to the money receipt executed by the respondent No.2/complainant's wife, wherein she has admitted receipt of the entire amount of Rs.41 lacs.



3. Learned counsel for the respondent No.2/complainant, on the other hand, has contended that in the complaint, a typographical error had taken place whereby the date of demand notice was incorrectly typed as 21.09.2019 instead of 21.08.2019. He submits that the criminal complaint is accompanied not only by the demand notice which bears the date as 21.08.2019, but also by the tracking report, which shows the same date. On the second contention, it is submitted that the subject cheque was towards sale consideration.

4. I have heard the learned counsels for the parties and perused the material placed on record.

5. Apparently, the dispute arose w.r.t. sale of an immovable property by the respondent No.2's wife in favour of the petitioner. As per the stand taken by the respondent No.2, the sale consideration included the subject cheque of Rs.1,00,000/- which, upon presentation, was returned dishonoured with the remarks 'funds insufficient' vide return memo dated 23.07.2019.

6. The contentions raised by the petitioner would require evidence as the same involve disputed questions of facts, which can be tested only in trial. Considering the aforesaid, I find no ground to interfere with the impugned order. Consequently, the petition is dismissed.

MANOJ KUMAR OHRI, J

MAY 9, 2024

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