



2024:DHC:1408



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

Date of decision: 22.02.2024

+ **CRL.M.C. 1444/2024**
M/S JAI AGRO ENTERPRISES

..... Petitioner

Through: Mr.Lave Kumar Sharma,
Mr.Anubhav Dubey,
Ms.Deepshika & Ms.Shivane,
Advs.

versus

THE STATE NCT OF DELHI AND ANR

..... Respondents

Through: Mr.Satinder Singh Bawa, APP.

+ **CRL.M.C. 1451/2024**
M/S JAI AGRO ENTERPRISES

..... Petitioner

Through: Mr.Lave Kumar Sharma,
Mr.Anubhav Dubey,
Ms.Deepshika & Ms.Shivane,
Advs.

versus

THE STATE NCT OF DELHI AND ANR

..... Respondents

Through: Mr.Satinder Singh Bawa, APP.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA
NAVIN CHAWLA, J. (ORAL)

CRL.M.A. 5701/2024 (Exemption) in CRL.M.C. 1444/2024
CRL.M.A. 5733/2024 (Exemption) in CRL.M.C. 1451/2024



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Allowed, subject to all just exceptions.

CRL.M.C. 1444/2024 & CRL.M.A. 5700/2024

CRL.M.C. 1451/2024 & CRL.M.A. 5732/2024

1. These petitions have been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') praying for quashing of the complaints filed by respondent no. 2 under Section 138 of the Negotiable Instruments Act, 1881 (in short, 'NI Act'), being CC No. 5529/2018 and 60402/2016 respectively, both titled *Sh. Satish Kumar v. M/s Jai Agro Enterprises*.

2. The learned counsel for the petitioner submits that the two cheques on the basis of which the above complaints have been filed by respondent no.2, were, in fact, handed over by the petitioner to the respondent no.2 as security under the Agreement for the Authorized Distributor Dealer executed between the parties on 25.05.2015. The learned counsel for the petitioner submits that the petitioner also sent a notice dated 14.06.2016 seeking the return of the three cheques that were handed over as security to respondent no.2 under the above Agreement.

3. He further submits that the perusal of the statement of accounts of the respondent no.2 would show that as of 01.06.2016, respondent no.2 claimed that the petitioner owed it Rs.10,33,510/-. It is the case of the respondent no. 2 itself, that the cheque bearing no. 105128 dated 29.06.2016 for an amount of Rs.10,00,000/- was deposited by it for claiming payment of



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the said amount. Respondent no.2, claiming that the said cheque has been returned dishonoured by the bank, filed criminal complaint no. 60402/2016. The statement of account reflects that the alleged outstanding swelled to Rs. 16,20,931/- as on 01.04.2018. Respondent no.2 claiming that the cheque bearing no. 105127 dated 14.08.2018 for an amount of Rs.15,00,000/- was issued by the petitioner in the discharge of the said liability in terms of a settlement, claims to have presented the said cheque, which was returned dishonoured by the bank, basis whereof respondent no.2 then filed the second complaint against the petitioner being CC No. 5529/2018. The learned counsel for the petitioner submits that, therefore, for the same outstanding amounts, the complaints have been filed by respondent no.2. He submits that even as per the case of the respondent no. 2, the cheque for Rs. 15 lakhs, that is the basis of the second Complaint Case, should have subsumed the first cheque for Rs. 10 lakhs, rendering the first complaint as infructuous.

4. Further, drawing reference to a notice dated 05.10.2018, he submits that the respondent no.2 has also approached the Micro and Small Enterprises Facilitation Council, Madhya Pradesh claiming that an amount of Rs.12,68,421/- is payable by the petitioner to the respondent no.2 against invoice no.00770 dated 21.10.2014. Drawing reference to the statement of account annexed with the petition, he submits that the said invoice was for a sum of only Rs.16,005/-. He submits that,



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therefore, there are discrepancies in the statement of account of respondent no.2, and respondent no.2 is making false and frivolous claims against the petitioner.

5. To a pointed query of this Court, the learned counsel for the petitioner admits that the process on the above complaints was served on the petitioner sometime in 2022. In one of the criminal complaints, notice has also been framed against the petitioner. I see no explanation on part of the petitioner justifying the delay in approaching this Court.

6. Even otherwise, the submissions that have been made by the learned counsel for the petitioner are disputed questions of facts, which would require a trial. These cannot be determined in these proceedings filed under Section 482 of the Cr.P.C. and be sufficient to scuttle the trial at a preliminary stage. The criminal complaint can be quashed by this Court only on limited parameters as has been laid down by the Supreme Court in ***State of Haryana & Ors. v. Bhajan Lal & Ors.*** 1992 Supp (1) SCC 335, which are quoted as under:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not



be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the*



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concerned Act, providing efficacious redress for the grievance of the aggrieved party.

- (7) *Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.*

103. *We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice."*

7. The power is to be exercised sparingly and in rare cases, rather than routinely. In my view, the petitioner has not been able to make out a case falling under any of the above criteria warranting interference by this court. Accordingly, I find no merit in the present petitions. The same are dismissed along with the pending applications.

8. Any observation made by this order shall not in any manner prejudice the petitioner before the learned Trial Court in the subject complaints.

9. *Dasti*

NAVIN CHAWLA, J

FEBRUARY 22, 2024/rv/am

Click here to check corrigendum, if any