



2024:DHC:7245



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

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Date of decision: 12th September, 2024

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CRL.M.C. 130/2020 & CRL.M.A. 562/2020

SIDDHARTH TANEJA (SOLE PROPRIETOR) M/S PERIYAR
HYBRID SEEDS CO.Petitioner

Through: Mr. Mohit Choudhary, Mr. Kunal
Sachdeva, Ms. Vaishali Shukla & Mr.
Raghav Dixit, Advocates.

versus

STATE & ANR.

.....Respondents

Through: Mr. Hemant Mehla, APP for State.

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****JUDGMENT (oral)**

1. The Petitioner, under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C., 1973"*) seeks quashing of the Summoning Order dated 29.11.2018 passed by the learned Metropolitan Magistrate in Complaint Case No. CC 14338/2018 filed under Section 138 of the Negotiable Instruments, 1881 (*hereinafter referred to as "NI Act, 1881"*).
2. The petitioner, the sole Proprietor of the Firm *M/s Periyar Hybrid Seeds Company* is involved in the business of trading and packaging of seeds. The respondent No. 2-complainant is the sole Proprietor of *M/s Sri Jee Traders* and was the supplier of seeds/pulses to the petitioner. In their business dealings, they entered into various Pledge Agreements.
3. According to the respondent No. 2-complainant, an amount of Rs.



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57,15,000/- was outstanding against the petitioner for which the petitioner issued two Cheques bearing No. 061300 dated 06.08.2018 and No. 71789 dated 14.08.2018 in the sum of Rs. 30,00,000/- and Rs. 27,15,000/- respectively.

4. According to the petitioner, the real transaction was that the parties had entered into two Pledge Agreements dated 02.11.2017, whereby 8,000 quintals of *Sarso* Seeds, belonging to the petitioner, was pledged to the husband of the respondent No. 2-complainant on certain terms and conditions. The cheques in question mentioned in the Pledge Agreement were to be encashed only upon returning of the pledged goods i.e., *Sarso* Seeds. Another Agreement dated 06.03.2018 was also executed in terms of which, the material worth Rs. 4-5 crores was lying in the godown of the pledge.

5. It is submitted that at the time of execution of the captioned Agreements, blank signed documents were handed over which have now been filed and have been made the basis of the Complaint under Section 138 of NI Act, 1881. The petitioner reserves its right to take appropriate legal action against the respondent No. 2 *qua* the misuse of the cheques.

6. The petitioner herein has claimed that in order to take back the pledged material by making payments, several letters were written.

7. On 29.08.2018, the respondent No. 2-complainant/her husband informed the petitioner/his father that certain Agricultural Officers have arrived at godown so as to inspect the seeds in terms of the Seed Act. The inspection was however, denied. Suspecting the conduct of respondent No. 2-complainant/her husband to be illegal, the Agricultural Department sealed the Godown on 29.08.2018. The



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respondent No. 2-complainant/her husband thereafter contacted the Agricultural Department to permit them to carry out the inspection in seven days and the date was fixed as 06.09.2018.

8. It is submitted that 04.09.2018, it came to the knowledge of the Agricultural Department that the seal put by its Officers was illegally broken and an FIR bearing No. 710/2018 under Section 188 of the Indian Penal Code, 1860 was accordingly registered.

9. Further, on 06.09.2018, when the petitioner approached the godown for inspection, he found that though the seals were broken, the godown was locked, but neither the respondent No. 2-complainant nor her husband came to their godown even after many calls. Thereafter, the Agricultural Department Officials came and broke open the locks of the godown in the presence of the Police Officials.

10. When the petitioner entered into the godown, it was evident that apparently quantity of the seeds had been removed and what were available was less than the seeds stored. On counting the entire inventory by the Agricultural Department Officials, it was found that only 3750.24 quintals were left, whereas 9600 quintals of Sarso Seeds had been stored. It was a clear case where respondent No. 2-complainant had removed the pledged goods for *mala fide* purposes.

11. It is further submitted that on 18.10.2018, in the Seed Court, stand taken by the Lohias was that the material which was lying in the godown on the date of sealing was 6200 quintals and that amount picked up/inventorized was merely 3700 quintals, which if calculated at the rate of Rs. 40/- per kg., the value of removed the goods/material comes around Rs. 2.48 crores.



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12. The respondent No. 2-complainant filed a petition before the Revisional Court which demonstrates that the shortcoming of material by Rs. 1.8 crores.

13. The petitioner has claimed that in the facts and circumstances, the respondent No. 2-Complainant had no occasion to present the cheques in question and the Complaint under Section 138 of NI Act, 1881 is untenable.

14. Respondent No. 2-complainant disclosed incomplete facts in his Complaint under S. 138 NI Act, leading to the summoning of the Petitioner *vide* Order dated 29.11.2018.

15. It is claimed that Pramod Lohia who has a criminal background and has several cases against him, is the brain child behind the present Complaint under Section 138 of NI Act, 1881. In the Ledger Book, Ex. CW1/14, the amount demanded from the petitioner was not towards the sale, as is evident from the ledger account. In any case, the authenticity of the Ledger account is denied. The petitioner has claimed that one matter bearing Crl. Rev. Pet. 619/2019 is already pending before this Court, wherein the Court was pleased to peruse the entire transaction between the parties and grant the stay Order. The FIR No. 826/2018 under S.406 IPC Police Station Samaypur Badli, Delhi in regard to this transaction, already stands registered.

16. It is submitted that the impugned Summoning Order dated 29.11.2018 is liable to be dismissed on the ground that the cheques were given as security cheque, which could not be presented when admittedly pledged material was not available for return/delivery. Moreover, the theft has been committed in the Godown.

17. The respondent No. 2-complainant has failed to perform her part of



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the contract and has misused the blank cheques given by the petitioner. The petitioner is yet to receive the articles, for which the money was pledged. The ledger accounts relied upon by the petitioner show the outstanding amount of Rs. 51,36,498/- while the two cheques add upto Rs. 57,15,000/-.

18. It is submitted that the respondent No. 2-complainant has not approached the Court with clean hands and the impugned Summoning Order dated 29.11.2018 is liable to be quashed.

19. Submissions heard and record perused.

20. From the bare perusal of the Complaint under Section 138 of NI Act, 1881 and the submissions made by the petitioner in the present petition, it is evident that admittedly the aforementioned two cheques were given by the petitioner, which on presentation got dishonoured for insufficiency of funds.

21. It is the defence of the petitioner that the said two cheques were given as a security cheques which were to be encashed only if the pledged goods were not delivered. However, the pledged goods i.e., Sarso Seeds got stolen and the FIR bearing No. 710/2018 under Section 188 of the Indian Penal Code, 1860. It is further the defence of the petitioner that the ledger accounts on which the respondent No. 2-complainant has relied, are not correct.

22. It is quite evident from the submissions made that there is no denial to the issuance of the cheques and its subsequent dishonour on the ground of insufficiency of funds.

23. All the contentions raised by way of present petition are, in fact, the defence of the petitioner which are required to be proved during the trial.

24. In view of foregoing discussions, there is no infirmity in the impugned Summoning Order dated 29.11.2018 passed by the learned



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Metropolitan Magistrate in Complaint Case No. CC 14338/2019.

25. Accordingly, the present petition along with pending Application is hereby dismissed.

(NEENA BANSAL KRISHNA)
JUDGE

SEPTEMBER 6, 2024
S.Sharma