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

+ CRL.M.C. 2296/2022 & CRL.M.A. 9685/2022

DEEPINDER SINGH

.....Petitioner

Through: Mr. Joby P. Varghese &
Mr. Aby P. Varghese,
Advocates.

versus

ECL FINANCE LIMITED
AND ORS

.....Respondents

Through: Mr. Shantanu Tomar,
Advocate (Through V.C.).

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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18.12.2024

1. The complainant alleged that the accused company, namely– M/s Pine Wood Information System Private Limited had issued cheque bearing 011218 dated 16.03.2015 (hereafter '**subject cheque**') for a sum of ₹20,00,00,000/- towards repayment of loan.

2. It is alleged that the subject cheque was signed by the accused Ms. Kawaljit Kaur and the same got dishonoured when presented for encashment.

3. It is the case of the petitioner that the petitioner had resigned from the accused company on 01.04.2014, that is, much prior to the issuance of the subject cheque and therefore cannot be held vicariously liable for offence under Section 138 of the Negotiable Instruments Act, 1881 ('**NI Act**').

4. He placed reliance on form DIR-11 in support of his submissions.



5. No reply has been filed in date to controvert the said fact that at the time of issuance of the subject cheque, the petitioner was not the director in the accused company. In terms of Section 141 of the NI Act, when a cheque is issued by a company, all those persons who are responsible for the conduct of the business of the company at the time of commission of offence are vicariously held liable for dishonour of the cheque.

6. From a bare perusal of the complaint, it cannot be disputed that the subject cheque was issued on 16.03.2015 and was subsequently dishonoured *vide* return memo dated 20.05.2015.

7. The petitioner, thus, who was nor the director of the accused company either at the time of the issuance of the subject cheque or at the time of it's dishonour, cannot be prosecuted for the offence under Section 138 read with Section 141 of the NI Act, upon dishonour of the subject cheque issued by the accused company.

8. The petition is therefore, allowed and the complaint case No. 47213/2016 is quashed in regard to the petitioner.

9. It is made clear that this Court has not impeded the learned Trial Court from proceeding further against other accused persons.

AMIT MAHAJAN, J

DECEMBER 18, 2024

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