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

+ **CRL.M.C. 3060/2024**

M/S KERNEL SERVICES THROUGH PROPRIETOR

MR. PRAVEEN CHAUHAN & ANR

..... Petitioners

Through: Mr. A.K.Dubey, Mr. Vidya Sagar and
Mr. Pawan Kumar, Advocates.

versus

M/S SAMRIDDHI ELECTOMART PVT. LTD.

THROUGH ITS DIRECTOR SUDHIR VIG

..... Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

23.04.2024

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CRL.M.A. 11817/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 3060/2024 & CRL.M.A. 11816/2024 (Stay)

3. This petition has been filed by the Petitioners challenging the impugned order dated 15.12.2023, passed by learned Additional Sessions Judge-05, Patiala House Courts, New Delhi District, New Delhi, in case *M/s. Kernel Services v. Samriddhi Electromart Pvt. Ltd.*, in *Criminal Appeal No. 150/2023*. By the impugned order dated 15.12.2023, application filed by the Petitioners under Section 311 Cr.P.C. read with Section 391 Cr.P.C for summoning witnesses and records has been dismissed.



4. Petitioners filed an appeal on 29.05.2023, which is pending before the Appellate Court. In the appeal, Petitioners filed an application under Section 311 read with Section 391 Cr.P.C. for summoning the records and calling upon witnesses i.e. *Ahlmads* of the Courts where three complaint cases under Section 138 of the Negotiable Instruments Act, 1881, have been allegedly filed by the Respondent against the Petitioners, one of which has been disposed of and two are purportedly pending. The application was dismissed by the Appellate Court on the ground that the application was filed at a belated stage and secondly, Petitioners had not disclosed the particulars/details of the multiple cases filed against them, which form the basis of the application.

5. Application has been placed on record and from a reading of the same even this Court is unable to discern the reason for summoning the *Ahlmads* of the Courts where the three complaints were filed and the records of the 3 cases, save and except, that multiple cases have been filed by the Respondent against the Petitioners and there is a transaction of more than Rs.65 lacs between the parties. Nothing is spelt out to show even a remote connection between those compliant cases and the present case. Even before this Court, during the course of hearing learned counsel is unable to explain the reason for summoning the records of the three complaints and the *Ahlmads* of the respective Courts, where the cases were filed and/or are pending. It is true that provisions of Sections 311 and 391 Cr.P.C. have to be liberally construed in the interest of justice, however, in the present case, the sketchy application filed by the Petitioners does not contain any reason or basis for invoking the said provisions and in the absence of the same, this Court finds no reason to interfere with the impugned order. Liberty is,



however, granted to the Petitioners to file an appropriate application giving details and reasons for summoning the witnesses and/or records, if so advised. Needless to state that if any such application is filed, the same will be decided on its own merits without being influenced by this order.

6. Petition is dismissed in the aforesaid terms. Pending application also stands disposed of.

JYOTI SINGH, J

APRIL 23, 2024/DU/shivam