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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 4784/2024, CRL.M.A. 17908/2024

M/S MGM INFRA DEVELOPMENT SOLUTIONS PVT. LTD. &
ORS.Petitioners

Through: Mr. Sudhir Naagar, Mr. Bhanu
Sanoriya and Mr. Piyush Aggarwal,
Advocates.

versus

IFCI VENTURE CAPITAL FUNDS INDIA LTDRespondent

Through: Mr. Rajnish Kr. Jha and Md. Faiyazul
Haque, Advocates alongwith Mr.
Sajan Rathi, A.R. of respondent in
person.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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28.10.2024

1. By way of present petition, the petitioners seek to assail the orders dated 16.08.2023 and 26.07.2022 passed by Ld. Judicial Magistrate (NI Act)-02, South East District, Saket Court, New Delhi in Complaint Case No.1529/2019 arising out of proceedings under Section 138 of the NI Act. Vide the impugned orders, the petitioners' opportunity to cross-examine the complainant has been closed.

2. Learned counsel for the petitioners submits that even at the stage of framing of notice under Section 251 Cr.P.C., the petitioners though admitted their signatures on the subject cheque, however, they had denied their liability and claimed trial. It is submitted that Trial Court taking into account the aforesaid admission, incorrectly fixed the case for statement of accused and recorded that no opportunity for cross-examination of the complainant



under Section 145(2) NI Act was warranted. It is further submitted that the aforesaid order has resulted in grave prejudice to the petitioners who are not only denying their liability but also contending that the particulars of the cheques were not filled up by them. He further submits that rather the petitioners had conveyed to the respondent not to present the subject cheque as their account was lying blocked.

3. Learned counsel for the respondent has denied the contentions made on behalf of the petitioners and submits that petitioners ought to have challenged the initial order whereby their opportunity under Section 145(2) of the NI Act was closed.

4. At this stage, ld. counsel for the petitioners submits that Trial Court on its own had closed the opportunity under Section 145(2) N.I. Act and posted the case for defence evidence.

5. Considering the petitioners' submissions and the defence raised, this Court is of the considered opinion that the petitioners may be given one opportunity to cross-examine the complainant in support of their submissions. The said opportunity shall however, be subject to cost of Rs.1 lac (Rupees One Lac Only) to be paid to the respondent on or before the next date of hearing before the Trial Court.

6. Ld. counsel for the petitioners, on instructions, submits that petitioners undertake that they shall avail the said opportunity on the next date of hearing before the Trial Court i.e. 28.11.2024 and would not seek adjournment.

7. Ld. counsel for the respondent, on instructions from the A.R. of the respondent, who is present in Court, submits that the said A.R. shall remain present before the Trial Court on the next date of hearing.



8. Petition is disposed of in the above terms alongwith pending application.

OCTOBER 28, 2024
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MANOJ KUMAR OHRI, J