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

+ **CRL.M.C. 6918/2023 & CRL. MA 25859/2023**

MS MONIKA OJHA

.....Petitioner

Through: Mr. Harshvardhan Jain, Ms. Tara Narula and Mr. Anirudh Ramanathan, Advocates.

versus

**STATE (GOVT. OF NCT)
OF DELHI & ANR.**

.....Respondents

Through: Mr. Nawal Kishore Jha, APP for State Mr. Arun Khatri, Ms. Shreya Lamba and Mr. Sahil Khurana, Advocates for respondent No.2.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
11.07.2024

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1. By way of present petition, the petitioner seeks quashing of complaint case being CC NI Act No.5629/2022 filed by the respondent No.2 under Section 138 of the Negotiable Instruments Act and setting aside of summoning order dated 08.08.2022 passed by the learned MM (NI Act), Central District, Tis Hazari Court, Delhi as well as order dated 12.07.2023 passed by learned ASJ-03, Central District, Tis Hazari Courts, Delhi whereby petitioner's revision petition against summoning order was dismissed.

2. The challenge in the present petition is based upon several grounds, one of which is that though an undated cheque had been handed over in 2019, the same was presented for encashment in the year 2022. Secondly, it



has been contended that the cheque was dishonoured due to 'signature mismatch'. Thirdly, it is contended that the legal demand notice, consequent to dishonour was not duly served upon the petitioner before filing of the subject complaint. Lastly, reliance has been placed upon the decision in State of Haryana v. Bhajan Lal reported as **1992 Supp (1) SCC 335**, to submit that the subject complaint case came to be filed as a counterblast to the FIR registered at the instance of the petitioner under Sections 376/506/328 IPC.

3. Insofar as the first ground is the concerned, it is submitted by learned counsel for the petitioner that the complaint is accompanied by a promissory note of the year 2019 which mentions the factum of handing over of the subject cheque. As per the promissory note itself, the liability of the petitioner to pay a sum of Rs.5.50 lacs is admitted. A reading of the promissory note would show that the same was made subject to the petitioner receiving permanent alimony. The issuance of promissory note itself is under challenge.

4. Insofar as the next contentions is concerned, it is submitted that the complaint was accompanied by a return memo indicating that the cheque was returned dishonoured due to the reason 'drawer signature differs'.

5. The aforesaid grounds, as discussed above, including the ground of non-receipt of statutory legal notice are all matters of trials, which require the leading of evidence and the same cannot be looked into by this Court at this stage.

6. In view of the facts enumerated above and in light of the decision in Sunil Todi & Ors. v. State of Gujarat & Anr, reported as **2021 SCC Online SC 1174**, I find no ground to entertain the present petition and the same is



accordingly dismissed along with the pending application.

MANOJ KUMAR OHRI, J

JULY 11, 2024/rd