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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 7039/2023 and CRL.M.A. 26275/2023 (stay)
C L BHATIA Petitioner
Through: Mr. Ranjan Sharma, Advocate

versus

STATE & ORS. Respondents
Through: Mr. Sanjeev Sabharwal, APP for State
Mr.Sunil Dutta Dixit and Mr.Sajal Dutt Sharma,
Advocates for respondent Nos.2 and 3

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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04.03.2024

1. By way of present petition filed under Section 482 Cr.P.C., the petitioner seeks quashing of the complaint case being CC NI Act 2744/2021 titled as '*Rahul Dewan & Another v. C.L. Bhatia*' pending before learned Metropolitan Magistrate (NI Act), Patiala House Courts, Delhi arising out of the proceedings initiated under section 138 NI Act.
2. The aforementioned prayer is premised on the ground that the subject complaint relates to two cheques issued to respondent Nos.2 and 3 separately and thus, the said transactions could not have been made part of one complaint.
3. Respondent No.2/complainant, on the other hand, seeks to rely upon Sections 219 and 220 Cr.P.C. as well as order dated 16.04.2021 passed by the Supreme Court in Suo Moto Writ Petition (Crl.) No.2/2020 titled 'Re: Expeditious Trial of Cases under Section 138 of N.I. Act 1881'. Additionally, it has been contended that the petitioner has also not



challenged the summoning order dated 21.09.2021.

4. A reading of the complaint as well as the complainant evidence placed on record would reveal that the petitioner (the accused in the complaint case) is the brother-in-law of respondent's paternal aunt (chachi), who persuaded him to invest his savings in the business of chit fund, with assurance of profit @ 1% per month. On the said assurance, respondent No.2 invested a sum of Rs.46 lacs over a period of time. Subsequently, on account of certain differences, the petitioner, in partial discharge of his liability, issued two cheques bearing Nos.749257 dated 15.11.2019 and 749258 dated 20.11.2019, each for Rs.5 lacs in the second week of October, 2019. The said cheques were however, later replaced by two new cheques bearing Nos.773753 and 773757 in January, 2020 and March, 2020 respectively. While the former cheque was encashed, the latter was dishonoured, when presented for encashment.

5. It appears that later the petitioner issued three more cheques out of which one cheque for the amount of Rs.5 lacs was encashed whereas the remaining two cheques for the amounts of Rs.5 and Rs.7 lacs were dishonoured. It is thus respondent No.2's case that a sum of Rs.10 lacs had been received and towards discharge of the remaining admitted liability of Rs.37 lacs, the petitioner issued four post-dated cheques, details of which are as under:-

- “1. Cheque No.773761 dated 15.07.2020 for Rs.7 lacs
2. Cheque No.773762 dated 15.07.2020 for Rs.5 lacs
3. Cheque No.682244 dated 31.12.2020 for Rs.20 lacs
4. Cheque No.682243 dated 31.12.2020 for Rs.5 lacs.”

Pertinently, the first three cheques were issued in the name of respondent No.2, *Rahul Dewan* whereas the fourth cheque was issued in the



name of his brother, *Nishant Dewan* (respondent No.3 in the present case). All the aforesaid cheques, when presented for encashment, were dishonoured. Notably, for the first two cheques, a separate complaint has been filed and pending before learned MM, Rohini while the complaint for the remaining cheques was filed before learned MM, Patiala House Court, New Delhi.

6. The issue raised by the petitioner in the present petition pertains to the said second complaint pending before learned MM, Patiala House Courts, New Delhi. The petitioner claims that two distinct cheques had been issued to the respondent No.2 and his brother and thus, the same would amount to two separate transactions. The said contention raised by the petitioner is however, incorrect.

7. As is apparent from the facts noted above, the liability in discharge of which, the subject cheques had been issued was the same liability i.e., the liability toward respondent No.2 and further, they were issued on the same day. Even otherwise, the case stands covered under Section 220 Cr.P.C. The following passage from the decision of the Constitution Bench in *Re: Expeditious Trial of Cases under Section 138 of N.I. Act 1881* (Supra) also lends credence to the said viewpoint:-

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15. Offences that are committed as part of the same transaction can be tried jointly as per Section 220 of the Code. What is meant by “same transaction” is not defined anywhere in the Code. Indeed, it would always be difficult to define precisely what the expression means. Whether a transaction can be regarded as the same would necessarily depend upon the particular facts of each case and it seems to us to be a difficult task to undertake a definition of that which the Legislature has



deliberately left undefined. We have not come across a single decision of any court which has embarked upon the difficult task of defining the expression. But it is generally thought that where there is proximity of time or place or unity of purpose and design or continuity of action in respect of a series of acts, it may be possible to infer that they form part of the same transaction. It is, however, not necessary that every one of these elements should co-exist for a transaction to be regarded as the same. But if several acts committed by a person show a unity of purpose or design that would be a strong circumstance to indicate that those acts form part of the same transaction. There is no ambiguity in Section 220 in accordance with which several cheques issued as a part of the same transaction can be the subject matter of one trial.

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8. In view of factual matrix and the legal position enumerated above, the petition is meritless and is consequently dismissed alongwith pending application.

MANOJ KUMAR OHRI, J

MARCH 4, 2024

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