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

+ **CRL.M.C. 5509/2022 & CRL.M.A. 21900/2022**

SANAT KUMAR

.....Petitioner

Through: Mr. Aadil Singh Boparai
(P2412/2012), Mr. Varun Bhati, Ms.
Srishti Khanna (D3568/2018) and Mr.
Abhishek Dubey (D1479/2021),
Advocates.

versus

SANJAY SHARMA

.....Respondent

Through: Mr. Rameshwar Singh Rana and Mr.
Mahender Singh, Advocates with
Respondent in person.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

20.09.2024

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1. The Petitioner has approached this Court challenging the summoning Order dated 06.06.2018 issuing summons to the Petitioner in Complaint Case bearing Ct. Case No. 2098/2018.
2. The facts as stated in the complaint are that the accused in the complaint, i.e., Rajiv Kumar and the Petitioner herein, i.e., Sanat Kumar, had sought financial assistance of Rs.25 lakh from the Complainant/Respondent herein in the year 2016.
3. It is stated that in order to repay the loan amount, cheques bearing No. 385287 dated 15.11.2017 drawn on PNB, Sitapur Mazra, UK for the sum of Rs.15 lakhs and cheques bearing No. 385288 dated 15.12.2017 drawn on PNB, Sitapur Mazra, UK for the sum of Rs.15 lakhs were issued in favour of



the Respondent/Complainant. However, it is stated that when the Complainant/Respondent presented these cheques with his banker ICICI Bank, Dilshad Garden, Delhi, the said cheques were dishonoured with the return memo “payment stopped by drawer”.

4. It is stated that the Respondent/Complainant sent a legal notice dated 17.01.2018 to the accused calling upon them to make the payment for the dishonoured cheques. It is stated that since payments were not made, the Respondent filed a complaint under Section 138 of the Negotiable Instruments Act.

5. It is stated that summons have been issued to the accused persons on 06.06.2018. The said summoning order has been challenged only by one of the accused, i.e., Accused No.2, i.e., the Petitioner herein, stating that the entity which took the loan is the sole proprietorship. It is stated that Accused No.1/Rajeev Kumar is the sole proprietor and Rajeev Kumar had issued the cheques and therefore the complaint under Section 138 of the NI Act against the Petitioner is not maintainable in the present complaint.

6. It is settled law that in a case of sole proprietorship firm, the sole proprietor alone can be held liable for a cheque issued by a sole proprietorship firm for repayment of any debt.

7. The Petitioner has filed the GST Form which shows that the entity Regal Cruiser Travels which availed financial assistance is a sole proprietorship firm and the sole proprietor is the Rajeev Kumar, who is Accused No.1 and not the Accused No.2, i.e., the Petitioner herein.

8. In view of the above, since the ingredients of Section 138 of the NI Act is not made out against the Petitioner, the complaint and the summoning order *qua* the Petitioner alone stands quashed.



9. With these observations, the petition is disposed of along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

SEPTEMBER 20, 2024

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