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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 5379/2024 AND CRL.M.A. 20609/2024
+ CRL.M.C. 5394/2024 AND CRL.M.A. 20651/2024
+ CRL.M.C. 5395/2024 AND CRL.M.A. 20653/2024
+ CRL.M.C. 5401/2024 AND CRL.M.A. 20676/2024
+ CRL.M.C. 5414/2024 AND CRL.M.A. 20716/2024

VIVEK GAUR

.....Petitioner

Through: Mr. Anant Malik, Ms. Akankshya
Misra and Ms. Snigdha Singhi,
Advocates.

versus

ARPAN MAHAJAN

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **22.07.2024**

1. The present petitions have been instituted seeking quashing of the order dated 05.03.2024 passed by the learned MM, Patiala House Courts, New Delhi in proceedings initiated under Section 138 of the NI Act being complaint cases bearing CC Nos. 17495/2017, 17496/2017, 894/2023, 895/2023 and 896/2023 against the petitioner. By the impugned order, the petitioner has been declared as proclaimed person.

2. The notice of these petitions was issued on the last date of hearing. Learned counsel for the petitioner states that the notice of the petition was duly served on the respondent/complainant and in this regard, he has also handed over an affidavit of service, which is taken on record.



3. A perusal of the paper book would show that complaints under Section 138 NI Act came to be filed against the petitioner wherein it was claimed that the cheques totalling to Rs.96 lacs were issued by the company namely VAS Data Services Private Limited on the basis of a transaction involving finished goods. Though the petitioner has been impleaded contending based on a contention that he was a director, the petitioner claimed that he had resigned from his duties as a director in the accused company in the year 2016. During the pendency of the complaint case, the parties were referred to mediation wherein they had reached a settlement and, in consequence of which, the aforementioned company had agreed to pay a sum of Rs.96,50,000/- against the entire claim. The company however, was subsequently declared as insolvent by the National Company Law Tribunal ('NCLT') vide its order dated 09.04.2019 and is currently undergoing the CIRP. It is also borne out from the record that an application seeking compounding of two complaint cases i.e. CC No.1719 of 2017 and CC No.1720 of 2017 was also filed whereafter a sum of Rs.29 lacs was also paid by the co-accused towards part satisfaction of the debt. The petitioner claims that the NBWs issued by the Trial Court vide order dated 08.06.2023 ought not to have been issued as the petitioner has already paid a sum of Rs.29 lacs and an application seeking compounding of two criminal complaint cases was also filed. It is also contended that no report of service of NBWs was ever received back and the process under Section 82 Cr.PC was initiated at the same address which indicates non-application of mind. It is stated that the petitioner's seeking recall of the impugned order was also dismissed.



4. Learned counsel for the petitioner further submits that the petitioner has the highest regard for the Court and undertakes to appear before the concerned Court as and when called and in this regard, prays that the process issued under Section 82 Cr.P.C against the petitioner and subsequent declaration of the petitioner as proclaimed offender be recalled. Learned counsel for the petitioner has also placed reliance on the order dated 12.07.2024 passed by the Coordinate Bench in Crl. M.C. Nos. 5300-5303/2024 filed on behalf of the co-accused wherein similar orders were set aside.

5. Considering the facts and circumstances of the case and the fact that the petitioner has given an undertaking that he will appear before the Trial Court, the impugned orders are set aside subject to the petitioner taking steps seeking revival of the proceedings within two weeks from today.

6. The petitions are disposed of in above terms along with pending applications.

MANOJ KUMAR OHRI, J

JULY 22, 2024/rd