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

\+ CRL.M.C. 5396/2024

JASMINE KAUR GUNDEEP SINGH SOOD & ANR. .....Petitioners

Through: Mr. Mudit Bir Kohli, Mr. Sohan Kumar & Ms. Vashishtha Parashar, Advs.

versus

ASAHI INDIA GLASS LIMITED & ANR. .....Respondents

Through: Mr. Rajdeep Singh Rao & Ms. Vasudha Agarwal, Advs. for R1

\+ CRL.M.C. 5397/2024

JASMINE KAUR GUNDEEP SINGH SOOD & ANR. .....Petitioners

Through: Mr. Mudit Bir Kohli, Mr. Sohan Kumar & Ms. Vashishtha Parashar, Advs.

versus

ASAHI INDIA GLASS LIMITED & ANR. .....Respondents

Through: Mr. Rajdeep Singh Rao & Ms. Vasudha Agarwal, Advs. for R1

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

O R D E R

% 18.07.2024

CRL.M.A. 20663/2024 *(for exemption)* in CRL.M.C. 5396/2024

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CRL.M.A. 20665/2024 *(for exemption)* in CRL.M.C. 5397/2024

1. Exemptions allowed, subject to all just exceptions.

2. These applications stand disposed of.

CRL.M.A. 20664/2024 *(for stay)* in CRL.M.C. 5396/2024 & CRL.M.C. 5396/2024
CRL.M.A. 20666/2024 *(for stay)* in CRL.M.C. 5397/2024 & CRL.M.C. 5397/2024

3. The present petitions are filed challenging the order dated 03.01.2018 (hereafter '**impugned order**'), passed by the learned Metropolitan Magistrate, South East District, Saket Court, Delhi, in CC No. 52/2018 and CC No.55/2018. The said complaints were filed by Respondent No. 1 for the offence under Section 138 of the Negotiable Instruments Act, 1881.

4. The learned counsel for the petitioners submits that the proceedings against the accused company were pending before the National Company Law Tribunal ('**NCLT**') and a Resolution Plan has already been sanctioned.

5. He submits that during the pendency of the complaints, the NCLT declared that there exists no liability of the accused company/ Respondent No.2 towards Respondent No.1/complainant.

6. He submits that thus, no amount can be recovered pursuant to the dishonoured cheques issued by the accused company since the same cannot be held to have been issued in discharge of any legally enforceable debt.

7. At the outset, it is relevant to note that the present petitions have been filed invoking the inherent powers of this Court with an inordinate delay. It is not the case of the petitioners that they were not aware of the passing of the impugned order. They have, in fact, been appearing before the learned Trial Court.

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8. Indisputably, no specific limitation has been prescribed for institution of proceedings under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 or under the erstwhile Section 482 of the Code of Criminal Procedure, 1973.

9. The Hon'ble Apex Court in the case of ***Londhe Prakash Bhagwan v. Dattatraya Eknath Mane*** **: (2013) 10 SCC 627** had considered the question as to when an aggrieved person can approach the Court if no limitation is prescribed in the statute for filing an appeal. The relevant portion of the judgment is reproduced hereunder:

> *"**9.** Even if we assume that no limitation is prescribed in any statute to file an application before the court in that case, can an aggrieved person come before the court at his sweet will at any point of time? The answer must be in the negative. **If no time-limit has been prescribed in a statute to apply before the appropriate forum, in that case, he has to come before the court within a reasonable time. This Court on a number of occasions, while dealing with the matter of similar nature held that where even no limitation has been prescribed, the petition must be filed within a reasonable time.** In our considered opinion, the period of 9 years and 11 months, is nothing but an inordinate delay to pursue the remedy of a person and without submitting any cogent reason therefor. The court has no power to condone the same in such case. (See Cicily Kallarackal v. Vehicle Factory [(2012) 8 SCC 524 : (2012) 4 SCC (Civ) 540] , State of Orissa v. Mamata Mohanty [(2011) 3 SCC 436 : (2011) 2 SCC (L&S) 83] and K.R. Mudgal v. R.P. Singh [(1986) 4 SCC 531 : 1987 SCC (L&S) 6] .) In these cases, it has been held that the application should be rejected on the ground of inordinate delay. Furthermore, it is to be noted that appointment of the appellant was within the knowledge of Respondent 1 from day one but he did not take any step for such a long time."*

10. A Coordinate Bench of this Court in ***Vipin Kr. Gupta v. Sarvesh Mahajan*** **: 2019 SCC OnLine Del 12349** had observed that if the Court does not take into consideration the delay in institution of proceedings, there would be no end to litigation and the trial would never come to an end.

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11. This Court does not consider it apposite to entertain the present petition at such a belated stage when more than six years have elapsed since the filing of the complaint and passing of the impugned order. No cogent explanation or sufficient cause has been provided in the petition for such a delay either.

12. The petitions are, therefore, dismissed.

13. Needless to say, the petitioners are at liberty to take all defences before the learned Trial Court.

14. It is also made clear that this Court has not expressed any opinion on the merits of the case.

15. The learned Trial Court is expected to pass a final order uninfluenced by the dismissal of the present petitions which has been done solely on the principle of delay and latches.

16. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J

JULY 18, 2024
"SS"

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