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

+ **CRL.M.C. 5569/2024**

SHRI PRAVEEN BHASIN AND ANR

.....Petitioners

Through: Mr. Praveen Suri and Mr. Akhil
Kumar, Advocates.

versus

M/S WINGS PHARMACEUTICALS PVT LTD

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

02.08.2024

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CRL.M.A. 21246/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

CRL.M.C. 5569/2024 and CRL.M.A. 21247/2024

1. Petition under Section 528 of Bhartiya Nagarik Surksha Sanhita, 2023, ('BNSS') has been preferred on behalf of the petitioners challenging order dated 22.06.2024 passed by learned Judicial Magistrate, First Class, District West, Tis Hazari Courts, Delhi.
2. Learned counsel for petitioners submits that initially complaint under Section 138 NI Act was filed on behalf of respondent against petitioners relying upon General Power of Attorney ('GPA') dated 19.12.2008 in favour of Sh. Ramesh Chandra, based on Resolution dated 10.12.2008. During the course of post summoning evidence, one of the Directors, Sh. Rajinder Prasad



Arora was examined on behalf of respondent as CW-1 who relied upon the said GPA dated 19.12.2008 which is based on Resolution passed by respondent on 10.12.2008, but the record of Resolution dated 10.12.2008 was not available in minutes book with CW-1. The grievance of petitioner is that Resolution dated 11.12.2008 was permitted by the learned Trial Court to be placed on record by CW-1 though the same was neither relied nor produced earlier by respondent / complainant. He vehemently contends that contents of document placed on record cannot be permitted to be proved by a different Resolution, in view of Section 92A of Bharatiya Sakshya Adhiniyam, 2023 ('BSA').

3. The deposition of CW-1 during cross-examination revealed that in GPA Ex. CW-1/1 relied by respondent / complainant, the date of resolution appears to have been wrongly mentioned as 10.12.2008 instead of 11.12.2008, which was claimed by CW-1 as typographical error. However, petitioner claims it to be a significant deviation. This Court is of the considered opinion that considering the facts and circumstances, it may be preposterous at this stage to presume that respondent / complainant cannot be permitted to place the correct document / factual position on record. However, the evidentiary value of such a document, if permitted to be placed on record, can be appropriately considered by the learned Trial Court at the time of final disposal of the proceedings. Accordingly, without expressing any opinion on the discrepancy pointed out in the date of resolution, the rights and contentions of the parties in this respect are kept open to be considered at stage of final arguments.

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of. Liberty is granted to petitioners to raise the aforesaid



contention at the stage of final disposal before the learned Trial Court which shall be taken into consideration in accordance with law.

A copy of this order be forwarded to learned Trial Court for information.

ANOOP KUMAR MENDIRATTA, J

AUGUST 2, 2024

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