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

+ **CRL.M.C. 6463/2019 & CRL.M.A. 42695/2019**

JASPAL SINGH

.....Petitioner

Through: Mr. Jaspreet Singh & Ms.
Nandini Singh, Advocates.

versus

STATE & ANR.

.....Respondents

Through: Mr. Naresh Kumar
Chahar, APP for the State.

45

+ **CRL.M.C. 6464/2019 & CRL.M.A. 42696/2019**

PRATEEK KOCHAR

.....Petitioner

Through: Mr. Jaspreet Singh & Ms.
Nandini Singh, Advocates.

versus

STATE & ANR.

.....Respondents

Through: Mr. Naresh Kumar
Chahar, APP for the State.

46

+ **CRL.M.C. 6469/2019 & CRL.M.A. 42706/2019**

GURPREET SINGH MADAAN

.....Petitioner

Through: Mr. Jaspreet Singh & Ms.
Nandini Singh, Advocates.

versus

STATE & ANR.

.....Respondents

Through: Mr. Naresh Kumar
Chahar, APP for the State.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

16.12.2024

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1. The present petitions are filed challenging the order dated 27.06.2019, passed by the learned Metropolitan Magistrate ('MM'), North West District, Rohini Courts, Delhi, in Complaint



Case No.11706/2019 filed under Section 138 of the Negotiable Instruments Act, 1881 (**‘NI Act’**).

2. The case of the petitioners is that the cheque bearing No. 220790 dated 22.04.2019 (hereafter **‘subject cheque’**) was issued by the accused namely – Mr. Dinesh Arora, from the account maintained by him, and that the petitioners cannot be held liable under Section 138 of the NI Act, as they are not the signatory of the subject cheque. The petitioners are sought to be made liable on account of them being directors in the accused company, namely, M/s. Hilarious Hospitality Private Limited.

3. The learned counsel for the petitioners submits that the complaint itself mentions that the subject cheque was issued by the accused Mr. Dinesh Arora in his personal capacity from his personal account.

4. In terms of Section 138 of the NI Act, the drawer of the cheque is prosecuted on dishonor of the said cheque, provided that the other conditions as specified in Section 138 of the NI Act are fulfilled. In terms of Section 141 of the NI Act, if the cheque is issued by a company, all those persons who at the relevant time, were responsible for the conduct of the company, are liable to be prosecuted.

5. Perusal of the complaint indicates that the subject cheque was issued by the accused Mr. Dinesh Arora, from his personal savings account for discharging the liability of the accused company. However, admittedly, the subject cheque was not issued by the company and therefore, the petitioners cannot be prosecuted for being the directors of the accused company.

6. Respondent No. 2 has also failed to file reply in the respective petitions. Thus, all the averments remain uncontroverted.



7. The petitions are therefore allowed and the Complaint Case No.11706/2019 is quashed qua the petitioners. Pending applications stand disposed of.

8. A copy of the order be placed in all the matters.

AMIT MAHAJAN, J

DECEMBER 16, 2024/ 'Aman'