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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 6762/2024 & CRL.M.A. 25813/2024 (stay)
M/S LAWRENCE ENTERPRISES AND ORSPetitioners
Through: Mr. Yash Chaturvedi, Adv.

versus

M/S IKKI SAREE CENTRERespondent
Through:

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

% **ORDER**
29.08.2024

CRL.M.A. 25814/2024(Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 6762/2024

1. This petition seeks quashing of Complaint Case bearing No.2438/2022 filed by respondent-complainant against the petitioners. The petition has been filed assailing summoning order dated 26th March 2022, passed by the Metropolitan Magistrate in proceedings arising out of 138 NI Act.
2. The sole ground is that the legal notice had been addressed to M/s. Lawrance Enterprises (through its proprietor Mr. Rajesh Jain) whereas the said entity is a partnership of which Mr. Rajesh Jain is a partner.
3. The complaint however, mentioned that accused was a firm M/s. Lawrance Enterprises, through its partner Mr. Rajesh Jain. Basis of the



complaint was that accused had purchased goods from the complaint *vide* various invoices but had not discharged their liability and stopped payment of outstanding bills. Complainant approached accused several times for clearing outstanding dues of Rs. 18,24,108/- against goods purchased and has appended statement of accounts as well.

4. In discharge of liabilities, the accused issued the following cheques which were however dishonoured on presentation with remarks '*insufficient funds*' and complaint was subsequently filed.

Bank & Cheque Bearing No.	Dated	Amount
HDFC BANK LTD. Vide Cheque No. 001489	10/01/2022	Rs. 1,00,000/-
HDFC BANK LTD. Vide Cheque No. 001490	10/01/2022	Rs. 1,00,000/-
HDFC BANK LTD. Vide Cheque No. 001491	10/01/2022	Rs. 1,00,000/-
HDFC BANK LTD. Vide Cheque No. 001492	11/01/2022	Rs. 1,00,000/-
HDFC BANK LTD. Vide Cheque No. 001493	11/01/2022	Rs. 1,00,000/-
HDFC BANK LTD. Vide Cheque No. 001494	11/01/2022	Rs. 1,00,000/-
HDFC BANK LTD. Vide Cheque No. 001495	12/01/2022	Rs. 1,00,000/-
HDFC BANK LTD. Vide Cheque No. 001496	12/01/2022	Rs. 1,00,000/-
HDFC BANK LTD. Vide Cheque No. 001497	13/01/2022	Rs. 1,00,000/-
HDFC BANK LTD. Vide Cheque No. 001498	13/01/2022	Rs. 1,00,000/-
HDFC BANK LTD. Vide Cheque No. 001499	14/01/2022	Rs. 1,00,000/-

5. Complaint had been amended in order to include the partnership firm and the concerned partners, and the amendment was allowed. The amended memo included Mr. Lawrance Jain, partner as an accused.

6. Petitioner's counsel states that Mr. Lawrance Jain is not mentioned in the complaint or the legal notice and further contends that amendment ought not to have been allowed.

7. A perusal of summoning order would show that necessary requirements for issuing of summons had already been complied with. On the issue of whether Mr. Lawrance Jain can be arrayed as an accused or not, can



be taken up before the trial court, at the appropriate stage. It is noted that cheques have all been signed on behalf of Lawrance Enterprises by Mr. Lawrance Jain, as an authorised signatory.

8. This Court does not find any infirmity in the impugned order, in allowing the amendment. The contention of the accused that the legal notice mentioned Mr. Rajesh Jain as the proprietor, may not be relevant, considering there is no doubt that the cheques were issued on behalf of M/s. Lawrance Enterprises, of which Rajesh Jain and Lawrence Jain are partners. Technical issues ought not to subvert the proceedings, leaving the complainant remediless.

9. Petition is therefore dismissed with these observations with liberty to petitioners to agitate the issue before the Trial Court, which be considered in accordance with law. Pending applications, if any, are rendered infructuous.

10. Order be uploaded on the website of this Court.

ANISH DAYAL, J

AUGUST 29, 2024/sm