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

+ CRL.M.C. 6279/2018, CRL.M.A. 49349/2018

M/S INNOVATION POLYMERS & ORSPetitioners

Through: Mr. Ramit Malhotra, Adv.(VC)

versus

M/S VARAHI LTDRespondent

Through: Mr.Sanjay Gupta, Mr. Shubhangam
Thakur, Advs.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

11.11.2024

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1. Sh. Sanjya Gupta, learned counsel for the respondent submits that in criminal petition No.6481/2022 titled as *Sri Rajiv and Ors. V. State Bank of India*, the High Court of Karnataka, Bengaluru vide order dated 06.10.2023 in the identical facts has inter alia held that the death of the signatory to cheque, issued in favour of the Bank, would not absolve or diminish the value of the cheque, even if it is a blank cheque issued as a security. Learned counsel submits that it was further inter alia held that the death of the drawer of the cheque cannot and will not efface such presumptions, as the cheque is issued on behalf of the company.
2. Learned counsel for the petitioner submits that the present judgment is not applicable to the facts of the case as the company is a separate legal entity, whereas in the present case, the cheque has been issued on behalf of the partnership firm.



3. In response to that, Sh. Sanjay Gupta, has relied upon *Anil Hada v. India Acrylic Ltd.* AIR 2000 SC 145 wherein it was held that in the expanded ambit of the word “company” even firms or any other associations of persons are included and as a necessary adjunct thereof, a partner of the firm is treated as director of the company.
4. Learned counsel for the petitioner submits that even as per the averments made by the complainant, the complainant cheque was allegedly issued on 25.09.2017 for Rs.30,85,257/- drawn on Bank of Baroda, Rudrapur, U.S. Nagar, U.K. towards payment of the liability whereas Sh. Naresh Kumar Malhotra had died on 07.03.2015. Learned counsel for the petitioner submits that in fact the complainant had fraudulently taken two blank signed cheques duly signed by Sh. Naresh Kumar Arora and the same were later misused.
5. Sh. Sanjay Gupta, learned counsel for the respondent however, submits that even as per the alleged documents filed by the petitioner, in the communication dated 14.09.2013 written by the complainant/company to Mr. Naresh Kumar Arora, it has been submitted that the cheques were taken blank for the purpose of updating account details. Sh. Sanjay Gupta has disputed the letter dated 14.09.2013
6. Thus, now the plea of the petitioner is that as per the case of the complainant, the cheques were issued on 25.09.2017 whereas the signatory Naresh Kumar Arora died on 07.03.2015. Thus, the petitioner states that the complaint itself is liable to be quashed. The case of the respondent is that they were barely given the cheque on 25.09.2017, having been signed by Naresh Kumar Arora and they



were not aware that when the same was signed. Thus, this Court considers this a disputed question of fact which is to be adjudicated by the learned Trial Court. In a petition under Section 482 Cr. PC, this Court will not be able to give any finding on the disputed facts. I consider that the parties have to be relegated back to the learned Trial Court for adjudication on such facts.

7. In the facts and circumstances, the petition stands disposed of with the directions to the parties to appear before the learned Trial Court.
8. Learned Trial Court is directed to conduct the trial expeditiously in accordance with the law.

DINESH KUMAR SHARMA, J

NOVEMBER 11, 2024

Pallavi/Smg