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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 733/2025, CRL.M.A. 6760/2025**
HUKUM SINGHPetitioner

Through: Mr. C. S. Rathour with Mr. Pramod
Singh, Advocates.

versus

ADIGEAR INTERNATIONAL AND ORSRespondents

Through: Mr. Anand V. Khatri, ASC for the
State with SI Mahavir Jogi, P.S.:
Barakhamba Road.

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **03.03.2025**

CRL.M.A. 6761/2025 (exemption)

Exemption granted, subject to just exceptions.

The application stands disposed-of.

W.P.(CRL) 733/2025

By way of the present petition filed under Articles 226 and 227 of the Constitution of India read with section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023, the petitioner *inter-alia* impugns order dated 17.05.2024, whereby the learned Sessions Court has suspended the sentence awarded to the petitioner by the learned Magistrate in Complaint Case No.6231/2017, in which case the petitioner has been convicted for the offence under section 138 of the Negotiable Instruments Act, 1881 ('NI Act'). By way of the impugned order the learned Sessions Court has also directed the appellant firm (arrayed as



respondent No.2 before this court) to deposit 20% of the fine amount (of Rs. 95 lacs) before the learned Magistrate, in terms of section 148 of the NI Act.

2. When queried as to how the present challenge is maintainable as a writ petition, Mr. C. S. Rathour, learned counsel appearing for petitioner submits, that the essential ground of challenge in this petition is that the petitioner had no concern with the firm on whose account the subject cheque for Rs. 66,28,000/- was drawn; and moreover, the complaint was not maintainable under section 138 of the NI Act since the statutory notice required under section 138(b) of the NI Act was not issued within *15 days* of dishonour of the cheque, *as is required by law*.
3. The record shows that the subject cheque is dated 06.02.2017; and was returned unpaid *vide* cheque return memo dated 22.02.2017. The statutory notice under section 138 of the NI Act was issued by the respondent on 21.03.2017.
4. Furthermore, a perusal of section 138(b) of the NI Act shows that *vide* Act 55 of 2002, the said provision was amended *w.e.f. 06.02.2003*, by which amendment the time prescribed for issuance of the statutory notice under section 138(b) was changed *from 15 days to 30 days* from the date of receipt of information of return of the cheque as unpaid.
5. Evidently therefore, the subject cheque which was returned *vide* cheque return memo dated 22.02.2017 was to be dealt-with in accordance with the amended provision of section 138(b) of the NI Act, which provided 30 days (instead of 15 days) for issuing the statutory notice from the date of receipt of information of return of the cheque as unpaid.



6. Furthermore, insofar as the question of the petitioner's liability for the cheque amount is concerned, though the petitioner contends that the debt comprised in the subject cheque was of respondent No.2 firm, Mr. Rathour admits that the petitioner was the signatory to the subject cheque, while also alleging that the signature was obtained fraudulently.
7. As per the record, the criminal appeal in which the impugned order dated 17.05.2024 was passed *is still pending* before the learned Sessions Court; and the petitioner is therefore at liberty to raise all his contentions before the learned Sessions Court, as may be permissible, in accordance with law.
8. In view thereof, this court finds no merit in the present petition, which is accordingly dismissed at the stage of issuance of notice itself; without however making any observations on the merits of the matter. For sake of abundant clarity, it is also observed that the petitioner shall be at liberty to raise all rights and contentions before the learned Sessions Court, as may be permissible, in accordance with law.
9. Pending applications, if any, stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

MARCH 03, 2025

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