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

\+ CRL.M.C. 2524/2021 & CRL.M.A. 16452/2021

EAST INDIA UDYOG LTD .....Petitioner

Through: Mr. K. Bhimizai Acharya, Advocate

versus

MEERA AHUJA AND ANR. .....Respondents

Through: None

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

O R D E R

% **04.11.2025**

1. Petition under 482 Cr.P.C. has been filed for challenging the Order dated 28.09.2021 in Criminal Revision No. 722/2019 whereby the learned ASJ has set aside the summoning Order dated 20.07.2019 against Respondent No. 1/Meera Ahuja.

2. Briefly stated, the Petitioner had filed a Complaint under Section 138 NI Act against the Respondent No. 2/Mukesh Ahuja wherein he was summoned and Notice under Section 251 Cr.P.C. was framed against him. During the evidence of CW 2/Satyam Aswasthi from Union Bank of India, it emerged that the bank account was in the name of Respondent No. 1/Meera Ahuja w/o Mukesh Ahuja.

3. It was also found that the impugned cheque was signed by Meera Ahuja and not Mukesh Ahuja. On disclosure of this fact, the Application under Section 319 Cr.P.C. filed by the Petitioner was allowed and Meera Ahuja was summoned by the learned MM *vide* Order dated 20.07.2019.

4. A Revision was preferred against the said Order. The learned ASJ allowed the Revision and set aside the Order of summoning of Respondent No. 1 under Section 319 Cr.P.C. by observing that the Legal Notice of Demand had been served only on M/s Cable House Proprietor Mukesh Ahuja. The Respondents No. 1 and 2 were accordingly, discharged.

5. Aggrieved by the said Order, the present Petition has been filed on the grounds that impugned Order dated 28.09.2021 of learned ASJ is bad in law and against the principle of natural justice..

6. The Sessions Court erred in observing that the respondent No. 2 was not involved in fraudulently and dishonestly issuing Cheque dated 19.04.2010 in the sum of Rs. 22,03,103/-. It has not been appreciated that the said cheque has been issued in discharge of legal Debt by Respondent No. 2, despite being fully aware that he is not the holder of the Account from which the said cheque was issued. The cheque was dishonored with the remarks 'payment stopped by the drawer'.

7. It is asserted that the Respondent No. 1 acted in connivance with Respondent No. 2 to cheat the Petitioner and to avoid payment of pending dues. Respondent No. 1 was responsible for withdrawing the cheques presented for payment of pending dues against the Petitioner. The Letter dated 21.05.2008 was addressed to the Bank on behalf of Respondent No. 1, requesting to stop payment against the impugned cheque. There is specific evidence to support this evidence alongwith the testimony of Bank officials to support that Respondent No. 2-Mukesh Ahuja and did the acts for and on behalf of Respondent No. 1-Meera Ahuja.

8. It has not been appreciated that it is only from the testimony of CW2 Satyam Awasthi recorded on 23.08.2016, that the Petitioner became aware

that Meera Ahuja in fact, is the sole Proprietor of M/s Cable House and not Mukesh Ahuja. It is Respondent No. 2/Mukesh Ahuja who had been dealing with the Petitioner and he never revealed the actual identity of the sole Proprietor.

9. It has not been acknowledged by the learned Sessions Judge that Respondents are Husband and Wife and have acted with *mala fide* intention, to deceive the Petitioner of the pending part payment and have been avoiding the it on one pretext or the other.

10. From the bare perusal of the documents on record, it can be seen that the Respondent No. 1/Meera Ahuja was involved in day-to-day business being the sole Proprietor and there was satisfactory evidence available on record to prove the same.

11. Section 319 Cr.P.C. was rightly invoked to summon Meera Ahuja. Therefore, a prayer is made that the impugned Order be set aside against Meera Ahuja.

12. None has appeared on behalf of the Respondents, though, they have been earlier appearing. Opportunity given.

Submissions heard and record perused.

13. The Petitioner in his Complaint under Section 138 NI Act, had specifically averred that Respondent No. 2-Mukesh Ahuja was the Proprietor of M/s Cable House. It is not in dispute that during the evidence of CW2 Satyam Awasthi, the Bank official, it got divulged that in fact, the Proprietor of the Firm is Meera Ahuja, wife of Mukesh Ahuja.

14. It also emerged that Mukesh Ahuja had been running the business on behalf of his wife and had even issued the Purchase Orders. However, the Legal Notice dated 28.09.2010 was addressed to M/s Cable House through

Proprietor Mukesh Ahuja

15. Section 138 NI Act provides that a Complaint under Section 138 NI Act must say that a cheque was issued in discharge of existing legal debt or liability, which on presentation was dishonoured. It is the prerequisite that the impugned cheque must be drawn by the Accused and is dishonoured for the reasons insufficient funds. Further, Section 138 NI Act requires that the Legal Notice be served to the drawer of the cheque and if the drawer fails to make the payment within 15 days of the receipt of Notice, technical offence of Section 138 NI Act is committed.

16. Admittedly, in the present case, the legal Notice was not addressed to Meera Ahuja. It may have been served on her address and in the name of Proprietorship Firm, but it is a fundamental principle of law that the Proprietorship Firm has not legal entity and it is only the Proprietor who represents the Company. No presumption under the law can be drawn that merely because the Notice was sent at the correct address to Mukesh Ahuja, it is deemed as service of legal Notice to Respondent-Meera Ahuja.

17. The difficulty is that though Mukesh Ahuja had apparently been doing business but it was in the name of his wife Meera Ahuja, who was the Proprietor of M/s Cable House. The cheque in question had been signed not by Mukesh Ahuja but Meera Ahuja on an account maintained by Meera Ahuja. Also, the Legal Notice under Section 138 NI Act, was also not served upon Meera Ahuja.

18. Learned ASJ has rightly observed that she could not have been summoned under Section 319 Cr.P.C., without fulfilling the prerequisites of Section 138 NI Act. Hence, learned ASJ has rightly set aside the Order of learned MM dated 20.07.2019 summoning the Respondent No. 1.

19. The Petition is accordingly dismissed and the Order of learned ASJ dated 28.09.2021 discharging the Respondent No. 1/Meera Ahuja and Respondent No. 2-Mukesh Ahuja is upheld.

20. The present Petition alongwith pending Application, is disposed of.

NEENA BANSAL KRISHNA, J

NOVEMBER 4, 2025

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