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

+ **W.P.(CRL) 2888/2023**

SURESH KUMAR VERMA

.....Petitioner

Through: **Mr. Rajeev Gupta and Mr. Rajshri,**
Advocates.

versus

**STATE OF WEST BENGAL THROUGH DISTRICT
MAGISTRATE & ANR.**

.....Respondents

Through: **Ms. Madhumita Bhattacharya,**
Advocate for State of West Bengal.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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06.02.2025

[This case is being taken up today as 5th February, 2025 was declared a holiday on account of General Elections-2025 in the Legislative Assembly of NCT of Delhi vide Notification dated 31st January, 2025]

1. The present writ petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 seeks directions for execution of warrants of attachment pursuant to order of sentence dated 28th July, 2014 passed by the Metropolitan Magistrate (NI Act)-03 in case bearing No. 3115/2012.
2. The aforementioned order has been passed pursuant the order of conviction dated 14th July, 2012. The order of sentence reads as follows:



Suresh Kumar Verma v/s B C C Shipping & Ship Building Ltd.

CC No. 3115/12

28.07.2014

Present. Complainant in person with counsel Sh. Navlendu Kumar.

Accused No. 1 is company already stands convicted vide order dated 14.07.2014.

Accused No. 2 and 3 are already absconders.



ORDER ON SENTENCE

Heard on the point of sentence. The total amount of the two cheques in question in the present case is Rs. Sixty Lacs. It has been held by the Hon'ble Supreme Court in **R. Vijayan vs Baby (2012) 1 SCC 260** that after 2002 Amdt of NI Act, in view of conferment of special power on the Magistrates u/s 143 (1), NI Act, ceiling as to amount of fine stipulated in S.29(2) Cr.P.C has been removed. Consequently, after 06.02.2003, in dishonour of cheque cases, said ceiling has been replaced with a ceiling of twice the cheque amount.

Considering the totality of circumstances, the convict no. 1 Company namely BCC Shipping & Ship Building Ltd is sentenced to pay a fine of Rs. Ninety Five Lacs u/s 138 read with section 141 NI Act, out of which the complainant shall be entitled to receive a compensation of Rs. Ninety Lacs in terms of section 357(1)(b) Cr.P.C.

Issue warrants of levy of fine in the sum of Rs. Ninety Five Lacs against the convict Company namely BCC Shipping & Ship Building Ltd, in terms of Section 421(1)(b) Cr.P.C authorising the Collector of the district in which the office of the convict no. 1 Company was or is situated to realise the above amount of Rs. Ninety Five Lacs as arrears of land revenue from movable or immovable property or both of the convict Company and to deposit the amount so realised in this Court or to file a report on or before 28.10.2014.

File perused. A fresh address of the convict Company was filed by the Complainant on record as **4th Floor, Phase II, NAM Complex, Block - M, B Wing, New Alipur, Kolkata**. AD Card sent along with summons issued against the said Company through Regd. Post was received back signed. Ld. Counsel for the Complainant submits that the accused No. 2 and 3 (since absconders) are still holding the position of Directors in the convict Company which is still functioning from the above address.

In the circumstances, SHO concerned is directed to arrest the above accused No. 2 Bhaskar Sen Gupta and accused No. 3 Swapan Sen Gupta (since absconders) and to produced them in Court or to file a report on or before NDOH.

A copy of this Order, Memo of Parties and the above fresh address be also sent to the District Collector as well as SHO concerned.

(JAGMOHAN SINGH)
M.M (NI Act)-03/Dwarka,

28.07.2014/Delhi



3. The Petitioner has now invoked the jurisdiction of this Court seeking directions to the State of West Bengal for execution of the said order.
4. The Court has been informed by Ms. Madhumita Bhattacharya, counsel for State of West Bengal, that on 2nd December, 2024, the Trial Court has taken notice of the status report filed by the District Magistrate and Collector, South 24 Pargana, indicating that the property sought to be attached, was owned by Kolkata Municipal Corporation, and that the convicted company, *i.e.*, BCC Shipping and Ship Building Ltd/ Respondent No. 2 is neither the owner, nor lessee of the said property. The said order of the Trial Court reads as follows:

“02.12.2024

File received by way of transfer vide office order No. 34860-34880/cases Tsfr/138 NI Act/Judl./Dwk/2024 dated 08.11.2024 passed by Ld. Principal District & Sessions Judge.

*Present: Ms. Tebarati, proxy counsel for Ms. Madhumita Bhattacharjee, for the DM.
Accused No.1 is company.
Accused No.2 is already PO.
None for accused No.3.*

Status report filed. Taken on record.

*As per the status report filed by office of District Magistrate & Collector, South 24, Pargana, the attached property is owned by Kolkatta Municipal Corporation and the convicted company *i.e.* BCC Shipping and Ship Building is neither owner nor lessee of the property which has been ordered to be attached by this Court.*

Ld. proxy counsel submits that request has been made to the Registrar of Companies, Kolkatta for ascertaining the address and contact number of the Directors of the accused company and that reply to that letter is awaited.

Accused No.2 has already been declared absconder. Process u/s 82 Cr.PC qua accused No.3 has also been duly executed.

Let court notice be issued to the process server who executed process u/s 82 Cr.PC qua accused No.3.

Put up for recording of statement of process server/supplying information as to Directors of the company/FP on 18.01.2025.



(Shubhamjot Kaur Rakhra)
JMFC (NI Act) -10
SW:Dwarka Courts/02.12.2024”

5. Subsequent proceedings before the aforesaid court, conducted on 18th January, 2025, reveal that a fresh status report was considered by the Trial Court, and notices of attachment were served on five acting directors of Respondent No. 2 by the Certificate Officer, District South, 24 Pargana, directing them to deposit the dues of INR 95 lakhs.
6. Further, counsel for the Respondents assures that any further directions, which are issued by the Trial Court, shall be implemented by Respondent No. 1, in accordance with law.
7. In light of the foregoing, no further directions are necessary to be passed in the present petition.
8. Accordingly, the present petition is disposed of.

SANJEEV NARULA, J

FEBRUARY 6, 2025

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