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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 9519/2023& CRL.M.A. 35580/2023**
VISHAL KUMAR SAXENAPetitioner

Through: Mr. Shyam Babu & Mr. Ankur
Shukla, Advocates.

versus

M/S HALLELU CLM FOOTWEAR LLPRespondent

Through: Mr. Indresh Upadhyay, Mr. Brijesh
Upadhyay, Mr. Saurabh Kumar and
Mohd. Faraz, Advocates.

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

% **ORDER**
14.02.2025

1. This hearing has been done through hybrid mode.
2. The present petition under Section 482 of the Cr.P.C. seeks the following prayers:

“a. Quash the complaint bearing Complaint Case (CC No. 2318/2022) pending before Sh. Vivek Beniwal, Ld. MM (NI Act) Digital Court-OJ, West, Tis Hazari Courts, Delhi, under Section 138 NI Act filed by the respondent titled as "M/S HALLELU CLM FOOTWEAR LLP Vs Top Gear Lifestyle Pvt Ltd. & Ors" and summoning order dated 08.09.2022 qua the Petitioner;
b. Stay the further proceedings before the Ld. Trial Court during the pendency of the petition;
c. Any other relief which this Hon'ble Court may deem fit under the circumstances of the case.”



3. Learned counsel appearing on behalf of the petitioner challenges the summoning order dated 08.09.2022 and the complaint dated 11.06.2022 filed by the respondent under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'NI Act') against the accused company namely, M/s Top Gear Lifestyle Pvt. Ltd. and its Directors including the present petitioner. It is submitted at the time when the Cheque no. 000647 dated 29.03.2022 for the sum of Rs. 1,27,57,877/-, drawn on HDFC Bank, was presented and returned unpaid *vide* return memo dated 11.04.2022, the petitioner has already resigned from the accused-company and with regard to the same, form DIR-11 has been annexed with the present petition, which reflects that the present petitioner had resigned on 29.10.2019.
4. Learned counsel appearing on behalf of the respondent fairly submits that that the present petitioner was not the Director at the time when the cheque was presented and submits that he has no objection if the impugned summoning order is set aside *qua* the present petitioner only and that his name may be deleted from the array of the accused persons.
5. In view of the aforesaid, the present petition is allowed. The summoning order dated 08.09.2022 is quashed *qua* the present petitioner.
6. The interim order dated 02.05.2024 stands vacated.
7. The complaint is of the year 2022, the Trial Court is requested to proceed with the matter in accordance with law as expeditiously as possible.
8. The petition stands disposed of.
9. Pending application(s), if any, also stands disposed of.
10. Copy of this order be sent to the concerned learned Trial Court for necessary information and compliance.



11. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

FEBRUARY 14, 2025/bsr/sc *Click here to check corrigendum, if any*