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

% ***Date of Decision: 14.08.2025***

\+ CRL.M.C. 5603/2025

MR. SUMIT GUPTA .....Petitioner

Through: Mr. Bharat Gupta, Mr. Varun Tyagi, Mr. Saurabh Khanijon & Mr. Ishan Srivastava, Advocates.

versus

STATE (GOVERNMENT OF NCT OF DELHI) & ANR.

.....Respondents

Through: Mr. Digam Singh Dagar, APP for the State

CORAM:
HON'BLE MR. JUSTICE ARUN MONGA

ARUN MONGA, J. (ORAL)

CRL.M.As. 24041-42/2025 (Exemptions)

Exemptions allowed, subject to all just exceptions.

The applications stand disposed of.

CRL.M.C. 5603/2025 & CRL.M.As. 24039-40/2025 (Stay)

1. Assailed herein is the summoning order dated 12.12.2023 passed by the Learned Judicial Magistrate First Class-05 (NI Act), South-East District, Saket Courts, New Delhi, in CC NI Act No. 4702/2023 titled "Rajan Chadha vs. Sumit Gupta" pending under Section 138 of the Negotiable Instruments Act. Quashing of the said complaint and all consequential proceedings is also sought.

2. Petitioner/ Sumit Gupta is accused of cheque bouncing, which he had issued in favor of the respondent no.2/complainant. He is the proprietor of

M/s Jindal Exim and was also a Director of M/s RBT Pvt. Ltd.. The complainant invested an amount of ₹5,16,50,000/- in the business venture of petitioner. That apart he also provided collateral of ₹3,96,49,140/- to South Indian Bank, thereby making a cumulative investment of ₹9,12,99,140/-.

2.1 An agreement dated 02.05.2019 between the two was later executed, pursuant to which the petitioner issued Cheque No. 001900 dated 01.05.2023 for ₹1,00,00,000/- drawn on ICICI Bank, Faridabad, towards discharge of the his liability which on presentation was dishonoured leading to instant petition.

3. In the aforesaid backdrop, having heard the parties and perused the material on record.

3.1 Learned counsel for the Petitioner submits that the summoning order passed by the Learned Judicial Magistrate First Class is legally unsustainable. It is argued that the essential ingredients of Section 138 of the Negotiable Instruments Act, 1881 are not fulfilled in the present case, as there was no legally enforceable debt or liability against the Petitioner. The cheque dated 01.05.2023 was issued pursuant to the agreement dated 02.05.2019. Any claim for compensation under that agreement is barred by limitation. Consequently, on the date the cheque was presented, no subsisting liability existed, rendering the complaint untenable.

3.2 He contends that, even as per the averments in the complaint and documents filed by Respondent No. 2, the cheque in question was not issued in discharge of any legal debt. Instead, it was issued merely as a gesture of goodwill and compensation for alleged mental agony, as reflected in the Agreement dated 02.05.2019. Since compensation for mental agony does not constitute a legally enforceable debt, the proceedings under Section 138 of the NI Act cannot be maintained.

3.3 It is further submitted that the investment and payments were admittedly made by M/s Panex Overseas, a partnership firm of Respondent No. 2, directly to M/s RBT Pvt. Ltd., and not to the Petitioner in his personal capacity. Therefore, no liability can be fastened on the Petitioner, who neither received the funds nor was responsible for the management of M/s RBT Pvt. Ltd. after March 2019. Reliance is placed on the financial statements of the company, signed by Respondent No. 2 himself, showing no loss in the relevant year.

3.4 Learned Counsel also points out that the legal notice preceding the complaint was defective, vague, and not properly served on the Petitioner. Further, the complaint was filed by Respondent No. 2 in his individual capacity, despite the alleged payments being made by his partnership firm, M/s Panex Overseas. This makes the complaint not maintainable.

3.5 It is thus argued that M/s RBT Pvt. Ltd. is a separate legal entity, and any disputes concerning its affairs were primarily between Respondent No. 2 and Mr. Sanjay Arora, the other director. The Petitioner had resigned and ceased to have any role in the company since March 2019. Furthermore, M/s RBT Pvt. Ltd. has been admitted to the Corporate Insolvency Resolution Process by the NCLT and ordered for liquidation. Therefore, fastening liability on the Petitioner alone is misconceived. The impugned summoning order is thus bad in law, liable to be set aside, and the complaint proceedings against the Petitioner deserve to be quashed.

4. Per contra, learned APP opposes the petition, stating all the arguments raised before this court are matter of trial.

5. Having heard and persued the case file, not only I am unable to persuade myself with the arguments of the learned counsel for the petitioner.

6. The disputed questions, such as whether the cheque was issued towards an enforceable liability, cannot be decided in a petition under Section 528 BNSS/482 CrPC and must be adjudicated at trial. The complaint, pre-summoning evidence, and documents prima facie disclose the commission of an offence under Section 138 of the NI Act. At the summoning stage, only a prima facie case is required to be established.

7. The argument of learned counsel for the Petitioner that the cheque was issued as compensation and not towards a legally enforceable debt is untenable. Accepting such a contention would create an anomalous situation where parties mutually agree to settle disputes through payment of damages/compensation and later seek to evade the agreed terms on the ground that the agreement is not legally enforceable.

8. I am of the view that not only the agreement, *ibid*, between the parties is enforceable by way of specific performance in accordance with law, but even the cheque issued pursuant to it is equally entitled to be encashed by the party lawfully holding it.

9. As an upshot, no grounds to interfere.

10. Dismissed. However, all the defence raised in the petition herein is left open to be adjudicated by the learned Trial Court at the appropriate stage.

ARUN MONGA, J

AUGUST 14, 2025/*nk*