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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 7062/2025, CRL.M.A. 29639/2025, CRL.M.A.
29640/2025 & CRL.M.A. 29641/2025

LAXMI LAWANIA

.....Petitioner

Through: Mr. Akhil Shankhwar, Mr. Vardan
Mittal, Advocates

versus

ASUJA ESERV PRIVATE LIMITED

.....Respondent

Through: Mr. Shriram Tiwary, Mr. Prafulla,
Mr. Kuldeep Singh, Advocates

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
06.11.2025

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1. The present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (corresponding to Section 482 of the Code of Criminal Procedure, 1973²) seeks quashing of CC NI Act No. 1095/2021 titled as *Asuja Eserv Private Limited Vis. Megma RFID and Labels Private Limited and ors.* initiated under Section 138 of the Negotiable Instruments Act, 1881³ before the JMFC (NI Act), THC, Delhi.
2. Counsel for the Petitioner has drawn attention to the order dated 06th October, 2021, wherein, after hearing arguments on the point of summoning, the Trial Court recorded its satisfaction that a *prima facie* offence under

¹ "BNSS"

² "CrPC"



Section 138 of NI Act was made out “*only against Accused Nos. 1 and 2.*” The Court further observed that “*no allegation has been made against Accused No. 3 in the complaint*”, and accordingly directed that summons be issued only to Accused Nos. 1 and 2. The relevant portion reads as under:

*“Arguments heard on the point of summoning. All the statutory requirements under the NI Act are complied with. The present complaint case is filed within limitation in view of the order dated 27.04.2021 passed by the Hon'ble Supreme Court of India in Suo Moto Writ Petition (Civil) No.3 of 2020 titled as IN RE: COGNIZANCE FOR EXTENSION OF LIMITATION. Complainant has filed the pre-summoning evidence by way of affidavit alongwith the relevant documents including the dishonoured cheque, bank return memo, legal notice sent to the accused and proof of sending the legal notice. Upon examination of the evidence affidavit of the complaint and the documents present on record, it is found that there are sufficient grounds to proceed against the accused, as prescribed under Section 202 Cr.P.C. **After perusal of the entire record, this Court is of the considered opinion that a prima facie case punishable under Section 138 of N.I. Act is made out against the accused no. 1 and 2 only. No allegation has been made against accused no.3 in the complaint.***

***Issue summons to the accused no.1 and 2 only through approved registered courier, speed post, whatsapp and e-mail for 30.11.2021.** Complainant is directed to file PF and take steps within 07 days. Complainant is directed to supply the copy of complete set of documents filed in the court including the evidence affidavit of complainant. Reader cum Ahlmad is directed to issue the summons only after ensuring that the same has been done.”*

3. It is contented that since no summons were issued against the Petitioner, who was arrayed as Accused No. 3, the subsequent issuance of NBWs by the Trial Court on 17th January, 2022 is wholly unsustainable in law. In the absence of any summoning order against the Petitioner, no proceedings could validly commence or continue against him. The Counsel further submits that although the Petitioner appeared before the Trial Court

³ “NI Act”



under a *bona fide* but mistaken impression, such appearance cannot cure the jurisdictional defect arising from the lack of a summoning order.

4. On 03rd November, 2025, counsel for the Respondent sought time to verify the above facts. Today, on instructions, it has been confirmed that no summons were issued against the Petitioner.

5. In view of the above, it appears that the proceedings against the Petitioner have continued inadvertently and contrary to the original order of summons. Therefore, it is directed that if any proceedings against the Petitioner are still pending before the Trial Court, the same shall be discontinued forthwith.

6. With the above directions, the present petition is disposed of. The Trial Court is directed to update its records accordingly and continue the criminal complaint against the remaining accused in accordance with the order of summons dated 6th October, 2021.

SANJEEV NARULA, J

NOVEMBER 6, 2025/ab