

KABC170001102023



DATED: 11.09.2023 PW.1 PRESENT AND OATH IS ADMINISTERED.

CROSS EXAMINATION BY ADVOCATE FOR DEFENDANT NO.2:

Ex.P.9 is a distribution agreement. It is true that in this document Ex.P.9 there is no reference about the date of execution of the document. Witness volunteers that in the said document UTR number is mentioned for having transferred the amount on the same day. Through one of my mutual friend in Ramanagar district I came to know about 1st defendant company. I met defendants 2 and 3 at a same time. I have mentioned about the same in my plaint averments. Before proceeding with 1st defendant company I ascertaining about the said company and also some of its distributors. I have also gone through catalogue of 1st defendant company. There was no mention about number of directors of 1st defendant company in the catalogue. It is not true to suggest that I deposing falsely before this court without ascertaining and also not having knowledge about number of directors of 1st defendant company.

There is a recital in the agreement about payment of amount. In the said agreement Ex.P.9 it is recited that I should take distribution-ship from 1st defendant company by making payment of Rs.5,00,000/- and in future on cancellation of said distribution ship said amount of Rs.5,00,000/- will be refunded by 1st defendant company. In Ex.P.9 there is no mention about the date on which I transfer the amount and also there is no reference about future date during which 1st defendant company shall return the amount to me. As per Ex.P.9 defendants assured me to supply sanitary-ware articles. In Ex.P.9 it is mentioned that agreement is executed between myself and 1st defendant company. It is true that in Ex.P.9 the name of the parties is left blank. It is not true to suggest that since there is neither reference about the parties between whom said agreement has been entered in to nor the date on which the same has been executed, it is nothing but a created document. It is not true to suggest that I am deposing falsely before this court in respect of Ex.P.9. I have paid Rs.5,00,000/- through RTGS to 1st defendant company. Defendants 2 and 3 furnished bank details for the purpose of RTGS at the time of Ex.P.9. It is not true to suggest that said

bank details was furnished by 3rd defendant and not 2nd defendant.

2. I have no knowledge about compliant filed by 2nd defendant and others. I have filed complaint on 12.11.2019 and FIR came to be registered on 13.11.2019.

Question: As per compliant produced before this court it was on 13.11.2019?

Answer: I went to police station on 12.11.2019 but they taken the compliant on 13.11.2019.

It is not true to suggest that inspite of knowing complaint filed by 2nd defendant on the same day, I am deposing falsely before this court in this regard. It is not true to suggest that on the basis of my complaint and compliant lodged by 2nd defendant concerned police enquired me and recorded my statement. In Ex.P.2 there is no reference about my name. Witness volunteers that my firm name is available. The signature available as authorized signatory in Ex.P.2 is signature of D3, same is now marked as **Ex.P.2(a)** and signature available on right side of document is my brother's signature, same is now marked as **Ex.P.2(b)**. It is true that Ex.P.2 was issued to me by

3rd defendant. Except Ex.P.2 and P.9 I have no other documents pertaining to 1st defendant company issued in my favour. At the time of issuance of legal notice, I have mentioned that Ex.P.2 was issued to me on behalf of company. It is true that even in my plaint I have not specifically mentioned about who has issued Ex.P.2 to me.

Question: You have done all transactions with 3rd defendant and 2nd defendant is in no way concerned with the same?

Answer: I have transacted with 1st defendant company directors.

I transferred the amount of Rs.5,00,000/- through RTGS on 01.07.2019 from my Bengaluru branch account. After such RTGS I called both D2 and D3. Witness later deposes that he called many times 3rd defendant in this regard and some times 2nd defendant.

Question: You have not transacted with 2nd defendant at any point of time.

Answer: I transacted with 1st defendant company and its workers.

I have no knowledge that 3rd defendant was actively carrying on the activity of 1st defendant company. It is not true to suggest

that I was also aware of compliant lodged by 2nd defendant against 3rd defendant. After transfer of amount of Rs.5,00,000/- I have not made any communication with defendants in writing. I have not issued any letter in writing demanding return of my money from defendants. I got issued notice through my counsel on 01.08.2023 demanding refund of amount of Rs.5,00,000/- from defendants. At present 1st defendant company is not in existence. It is not true to suggest that inspite of knowing that 1st defendant company is not in existence I have not taken any action against them since 2019 till today.

Question: Since you have done all transactions with 3rd defendant, 2nd defendant is not liable in any manner?

Answer: I have done transaction with 1st defendant company.

After 2 years and odd from the date of transfer of amount by way of RTGS I instituted this suit.

Question: You have filed this suit after lapse of 3.5 years from the date of said RTGS of amount?

Answer: I do not remember the date but there is some delay in filing this suit.

There is no averments in the plaint with regard to said delay in filing the suit.

Question: 2nd defendant is not at all liable to pay any amount to me?

Answer: I have transacted with 1st defendant company and filed this suit against 2nd and 3rd defendant company since they are the directors of 1st defendant company.

It is not true to suggest that by filing this suit even against 2^d defendant inspite of transacted with 3rd defendant, I am only trying to create some confusion before this court. It is not true to suggest that I am deposing falsely before this court against 2nd defendant.

Cross Examination by D3: adjourned at request.

(Typed to my dictation in the open Court.)

R O I & A C

**(LATHAKUMARI M)
LXXXV ACC & SJ, BENGALURU.**