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

+ **CRL.REV.P. 400/2023 & CRL.M.(BAIL) 514/2023**

R L VARMA AND SONS HUF AND ANR Petitioners

Through: Petitioner No.2 in-person.
versus

STATE AND ANR Respondents

Through: Mr. Satinder Singh Bawa, APP for
the State.

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER
12.04.2023

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CRL.M.A.9386/2023

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed of.

CRL.REV.P. 400/2023

By way of the present revision petition filed under sections 397/401 of the Code of Criminal Procedure 1973, the petitioners impugn order dated 14.03.2023 made by the learned Principal District & Sessions Judge, Patiala House Courts, New Delhi in CRL.A. No. 64/2022 upholding the judgment of conviction dated 23.02.2023 and the sentencing order dated 25.02.2022 passed by the learned Metropolitan Magistrate in CC No. 23443/2016 under section 138 of the Negotiable Instruments Act, 1881 ('NI Act').



2. By way of the sentencing order made by the learned Magistrate, as upheld by the learned Sessions Court, petitioner No.2 has been sentenced to undergo simple imprisonment for a period of 03 months, which is to run concurrently with the sentence of simple imprisonment for a period of 01 month awarded in the connected complaint case bearing CC No. 23317/16. Furthermore, the petitioners have also been ordered to pay fine of Rs.21,50,000/- to respondent No.2/complainant as compensation.
3. Petitioner No.2 has been directed to appear before the learned Magistrate to serve the sentence on 14.04.2023.
4. Mr. Dhruv Varma/petitioner No. 2 appears in-person for himself and on behalf of petitioner No.1/RL Varma & Sons (HUF) and submits that the principal ground of challenge against the impugned order is, that both the learned Magistrate as well as the learned Sessions Court have fallen in error in not appreciating, despite the evidence on record, that there was no legally enforceable debt owed by the petitioners to respondent No.2 *as on the date on which the subject cheque was issued*. Mr. Varma has taken the court through the impugned judgment to substantiate this submission.
5. Mr. Varma also places reliance on the verdicts of the Supreme Court in ***Sampelly Satyanaryana Rao vs. Indian Renewable Energy Development Agency Limited***¹ and ***Dashrathbhai Trikambhai Patel vs. Hitesh Mahendrabhai Patel & Anr.***² to buttress his submission that a cheque issued on 05.11.2010 *cannot* compromise an alleged debt

¹ (2016) 10 SCC 458.

² (2023) 1 SCC 578.



towards brokerage payable in respect of a lease deed executed on 19.11.2010.

6. Upon a *prima-facie* view of the matter, issue notice.
7. Mr. Satinder Singh Bawa, learned APP appearing for the State on advance copy; accepts notice and submits that the State has no role in the matter.
8. Upon the petitioners taking requisite steps, let notice be sent to respondent No. 2 by all permissible modes, returnable for the next date.
9. Let the notice indicate that reply to the petition be filed within 06 weeks of service; rejoinder thereto, if any, be filed within 04 weeks thereafter; with copies to the opposing counsel.
10. Mr. Varma submits that the cheque in the present case was for the value of Rs.10,75,000/-; and the sum of Rs.7,40,000/- has already been deposited by the petitioners before the learned ASJ towards two cheques, viz. the cheque that is the subject matter of the present proceedings as also the cheque that is subject of connected CRL.REV.P. No. 399/2023; which amount has since also been withdrawn by respondent No.2.
11. In the circumstances, *subject to* the petitioners depositing the sum of Rs.3,35,000/- with the Registrar General of this court by or before 15.07.2023, the sentence imposed upon the petitioners shall remain suspended till the next date of hearing before this court.
12. It is made clear that the suspension of sentence shall come into force *with immediate effect* but the Registry shall monitor compliance with the direction to deposit the abovementioned sum; and shall re-list the



matter immediately after 15.07.2023 if the deposit is not made as directed.

13. The Registrar General is directed to retain the amount deposited in an interest bearing fixed deposit account in a nationalised bank, initially for a period of 06 months, to be renewed for a like term thereafter from time-to-time, without awaiting further instructions in the matter, till the pendency of the present proceedings.
14. Re-notify on 06th September 2023.
15. Order be given *dasti* under the signatures of Court Master.

ANUP JAIRAM BHAMBHANI, J

APRIL 12, 2023

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