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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 3331/2024**
KANTI SHORI

..... Petitioner

Through: Mr.Abhishek Garg, Mr.Yash &
Mr.Ranesh Mankotia, Advs.

versus

**SHAH TC DISTRIBUTION LLP THROUGH SH NEELESH
SONI**

..... Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **30.04.2024**
CRL.M.A. 12840/2024 (Exemption)

1. Allowed, subject to all just exceptions.

CRL.M.C. 3331/2024 & CRL.M.A. 12841/2024

2. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C'), challenging the maintainability of the complaint filed by respondent under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the 'NI Act'), being Complaint Case no. 2157/2022, titled ***Neelesh Soni v. Nityam Pharma***; the non-bailable warrants issued therein against the petitioner vide order dated 12.09.2023; and the initiation of proceedings under Section 82 of the Cr.P.C., vide order dated 21.12.2023, passed by the learned Metropolitan Magistrate (NI Act), Digital Court No.3, North West District, Rohini Courts, Delhi in the



above mentioned Complaint Case.

3. The learned counsel for the petitioner submits that the subject complaint states that the cheques in question were presented by the respondent with the State Bank of India, Sector-7, Rohini, on 29.03.2022, and were returned unpaid vide Returning Memo dated 30.03.2022, with the remark '*payment stopped by the Drawer*' for 19 cheques and '*Funds Insufficient*' for 1 cheque. Respondent issued a legal notice of demand dated 16.05.2022, which was dispatched only on 26.05.2022. He submits that the notice of demand, therefore, was beyond the period prescribed under the Proviso (b) to Section 138 of the NI Act.

4. He submits that to get over limitation, respondent claims to have presented the cheques again for encashment with the HSBC Bank, Branch Connaught Place, on 28.04.2022. The respondent claims that these cheques were returned dishonoured vide return memo dated 29.04.2022, with the remarks '*payment stopped by Drawer*' and for one cheque with the remark '*fund insufficient*'. He submits that the Returning Memo, however, has been issued by the HSBC Bank's Branch at Gurugram. He submits that, therefore, the learned Trial Court would lack jurisdiction to take cognizance of the complaint.

5. He submits that even assuming that the cheques were presented with the HSBC Bank at Connaught Place Branch, still the learned Trial Court would lack jurisdiction inasmuch as the jurisdiction would lie with the Court at Patiala House Courts.

6. He further submits that the respondent has filed one single



complaint for 20 cheques. This would also not be permissible in view of Section 219 of the Cr.P.C.

7. Issue notice to the respondent, to be served through all permissible modes, including through the counsel representing the respondent before the learned Trial Court, returnable on 9th September 2024.

8. In the meantime, there shall be a stay on further proceedings in the subject complaint, and the orders dated 12.09.2023 and 21.12.2023.

9. Reply, if any, be filed within a period of four weeks of receipt of the notice. Rejoinder thereto, if any, be filed within a period of four weeks thereafter.

NAVIN CHAWLA, J

APRIL 30, 2024/rv/am

[Click here to check corrigendum, if any](#)