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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4896/2022, CRL.M.A. 19693/2022**
M/S. VIE TECHNOLOGY PRIVATE LTD.
AND ORS. Petitioners

Through: Mr. Manish Tewari, Sr. Advocate with
Mr. Gaurav Khanna, Ms. Deepali
Bhanot and Mr. Sudarshan Kutoy,
Advocates.

versus

M/S. RINGING BELLS PVT. LTD. Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

% **26.09.2022**

CRL.M.A. 19694/2022, 19695/2022 & 19696/2022

Allowed, subject to just exceptions and filing of certified copies on
record.

Application is accordingly disposed of.

CRL.M.C. 4896/2022, CRL.M.A. 19693/2022 (stay)

1. Petition under Section 482 Cr.P.C. has been preferred on behalf of the petitioners for quashing of complaint case no. 44690/2016, under Section 138 read with Section 141 & 142 of Negotiable Instruments Act, 1881, pending before learned MM (N.I. Act), Rouse Avenue Court, New Delhi and setting aside order of cognizance dated 14.07.2016 and non bailable warrants issued vide orders dated 03.06.2022 and 06.08.2022.
2. Respondent be served by all permissible modes on necessary steps being taken by learned counsel for the petitioners.



3. A bare perusal of the complaint reveals that the complaint has been filed by Mr. Anmol Goyal, authorized representative of the complainant company, who is stated to be duly authorized to file the complaint against the accused (petitioners in the present petition). The cheque is stated to have been issued by accused no.1 (petitioner no. 1 in the present petition) duly signed by accused no. 2/Vikas Kumar Sharma (petitioner No. 2/Director) with the knowledge and consent of accused no. 3 in the complaint (petitioner no. 3/Director in the present petition), after an assurance was given both by accused no. 2 & 3 that the cheque would be honoured on presentation. The cheque dated 31.03.2016 for a sum of Rs. 1 Crore was returned unpaid vide return memo dated 08.06.2016 for the reason “*payment stopped by drawer*”. It is further specified in para no. 8 of the complaint that accused no. 2 is the authorized signatory of accused no. 1. Accused no. 2 & 3 are the directors and promoters of accused no. 1 and both are persons-in-charge of and are responsible for the conduct of the day-to-day business of accused no. 1 and hence, all acts and deeds done by them are binding on accused no. 1. The form no. 32 with respect to accused no. 2 & 3 obtained from the official website of Ministry of Corporate Affairs has also been annexed with the complaint.

4. It may also be noticed that cognizance was taken by learned MM vide order dated 14.07.2016 and summons were thereupon directed to be issued to the accused/petitioners, returnable for 02.09.2016. Since the accused/petitioners failed to appear, NBWs were issued by the learned Trial Court vide impugned orders dated 03.06.2022 and 06.08.2022, returnable for 28.09.2022.

The accused instead of appearing before the learned Trial Court have



approached this Court with a petition under Section 482 Cr.P.C.

5. It is contended by learned counsel for the petitioners that the aforesaid cheque was given on behalf of the respondents merely as a security in lieu of advance and as such any liability towards the debt is denied. Two cheques dated 31.03.2016 and 28.03.2016 amounting to Rs. 1 Crore each is stated to have been presented only for the purpose of harassing and defrauding the petitioners. It is further urged that in the complaint there is no pleading to the effect that the authorized representative who has filed the complaint, had any direct or personal knowledge of the transactions between the parties.

6. At the outset, it may be observed that the contentions raised by learned counsel for the petitioner that the cheques had been issued for security, can only be appreciated after the reply is filed on record on behalf of respondent. Since the cheque had been duly issued under the signature of the authorized signatory, it cannot be presumed at this stage that cheque was not towards any debt or existing liability.

The technicality raised by learned counsel for the petitioner that the authorized representative did not have any direct or personal knowledge of the transactions, also appears to be preposterous at this stage, considering the averments made in the complaint.

It may be noticed that instead of responding to the summons, which were issued in 2016, the petitioners have directly approached this Court without even responding to bailable warrants issued by the learned Trial Court.

The proceedings are at nascent stage and it may not be appropriate to stay the proceedings before learned Trial Court.

However, considering the totality of the facts and circumstances, no



coercive action shall be taken against the petitioner no. 2 & 3 till the date of appearance on 28.09.2022. The learned Trial Court shall further consider the application for cancellation of NBWs in accordance with law, if any, preferred on behalf of the petitioners.

List on 24.02.2023.

ANOOP KUMAR MENDIRATTA, J.

SEPTEMBER 26, 2022/akc