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

+ **CRL.M.C. 5633/2024**

MOMENTUM SOLUTIONS PVT LTD & ORS.Petitioners

Through: **Mr. Saurabh Soni, Mr. Rishi Bhuta
and Mr. Mannat Singh, Advocates.**

versus

HERO FINCORP LTD.Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **24.07.2024**

CRL.M.A. 21502/2024 (Exemption)

Allowed, subject to all just exceptions.

CRL.M.C. 5633/2024 & CRL.M.A. 21501/2024

1. The present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhira (BNSS), 2023 has been filed for quashing the Order dated 18.12.2021 passed by the Ld. MM, Saket District Court in CC No.74/2021 and setting aside the Order dated 09.04.2024 passed by the Ld. Principal District and Sessions Court, Saket, Delhi in CRL. REV. Petition No.197/2022.

2. The principal argument taken by the learned Counsel appearing for the Petitioners is that the inquiry under Section 202 Cr.P.C has not taken place in a manner in which a Magistrate is expected to do. He states that the cheques were not honoured for the reason that accounts were closed. He



states that the Magistrate ought to have enquired as to whether on the date when the cheques were dishonoured, there were sufficient funds in the bank or not, for which purpose, the bank officials ought to have been summoned.

3. Learned Counsel for the Petitioners has shown the order sheet wherein the Complainant has delayed in filing of the process fee for summoning the bank authorities, but the bank officials were dropped and the summons was issued without being satisfied as to whether there were sufficient funds in the bank accounts or not for the offence to be made out. It is stated that the said Order has been challenged before the Revision Court. However, the Order passed by the Revisional Court does not seem to have tested the said Order.

4. Learned Counsel for the Petitioner is directed to file the memorandum of revision to satisfy this Court that the aforesaid point was indeed taken before the Revisional Court. He is also directed to file the Order Sheet which has been handed over in Court to demonstrate his point.

5. List on 30.08.2024.

SUBRAMONIUM PRASAD, J

JULY 24, 2024

S. Zakir