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

+ **CRL.M.C. 616/2024**

ARVIND KUMAR JAIN

..... Petitioner

Through: **Mr. Biswajit Swain, Advocate**

versus

THE STATE GOVT OF NCT DELHI & ANR. Respondents

Through: **Mr. Sumit Goel, Ms. Shreeparna Basak and Ms. Manisha Arya, Advocates for R-2.**

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **25.01.2024**

CRL.M.A. 2573/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 616/2024 & CRL.M.A. 2574/2024 (stay) & CRL.M.A. 2575/2024 (delay in refiling)

3. This petition has been filed under Section 482 Cr.P.C. on behalf of the Petitioner seeking quashing and setting aside of summoning order dated 10.01.2020 and criminal proceedings in Complaint CC No. 11035/2019 under Section 138 read with Section 141 of the Negotiable Instruments Act, 1881, filed by Respondent No. 2 wherein Petitioner is Accused No.3.
4. It is the case of the Petitioner that the Company i.e. Dwarka Residency Private Limited approached the complainant/ICICI Bank Limited for financial assistance to raise funds for general corporate purposes and parties agreed to an amount of Rs.25 crores, subject to Credit Arrangement



Letter dated 10.03.2017 read with Facility Agreement dated 10.03.2017. Company/Accused No. 1 gave four post-dated cheques to the Complainant, each worth Rs.6,25,00,000/- in addition to a PDC declaration. Petitioner herein resigned from his position as a Director of the Company on 16.08.2018, which is evident from Board Resolution of the Company dated 16.08.2018 and Form No. DIR-12. On presentation by the Complainant, the four PDCs were returned on the ground of 'insufficient funds' leading to the complainant issuing a legal notice on 08.07.2019. Subsequently, a complaint was filed before the learned CMM and on 24.12.2021, Petitioner was granted bail and was continuously appearing in the Court. On 07.12.2022, Petitioner filed an application for discharge, however, the learned Trial Court was of the view that the application was not maintainable and adjourned the matter for the Petitioner to take appropriate remedies leading to filing of the present petition.

5. It is the contention of learned counsel for the Petitioner that PDCs were dishonoured post the resignation of the Petitioner and he cannot be held liable for the same and in this context, reliance is placed on the judgments of the Supreme Court in **Anita Malhotra v. Apparel Export Promotion Council & Anr., (2012) 1 SCC 520** and **Harshendra Kumar D. v. Rebatilata Koley and Others, (2011) 3 SCC 351**.

6. At this stage, learned counsel for the Petitioner seeks deletion of Respondent No.1/Government of NCT of Delhi.

7. On oral request, Respondent No. 1 is deleted from the array of parties. Amended memo of parties be filed within two weeks from today.

8. Issue notice.



9. Mr. Sumit Goel, learned counsel accepts notice on behalf of ICICI Bank.
10. Reply be filed on or before the next date of hearing.
11. List on 26.02.2024.

JYOTI SINGH, J

JANUARY 25, 2024/kks/shivam