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

+ CRL.M.C. 8764/2024 & CRL.M.A. 33541/2024 (stay)

NILESHBHAI VINUBHAI PATELPetitioner

Through: Mr. Irfan Firdous, Mr. Monish Ali Khan,
Ms. Aleena Ms. Unnati Aggarwal & Mr.
Kamal Hasan, Advs. for pet.

versus

ESCORTS KUBOTA LIMITED & ANR.Respondents

Through: Mr Amit Bajaj, Adv.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
% **08.11.2024**

CRL.M.A. 33542/2024 (Exemption)

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

CRL.M.C. 8764/2024

1. This petition has been filed seeking to set aside the summoning order dated 26th June 2024, passed by the Metropolitan Magistrate, Patiala House Courts, New Delhi, in proceedings arising out of 138 NI Act, in CC No.30100/2023.
2. The issue relates to dishonour of cheque for Rs.1.70 crores, issued in August 2023 by M/s Jaykisan Agro, which is a partnership firm. The said cheque was signed by one Mr. Desai, which was returned dishonoured with the remark, 'Insufficient Funds'.
3. On 4th October 2023, respondent no.1/ complainant, issued a legal notice,



which was not replied to, by the accused/ partnership. Thereafter, a complaint was filed in November 2023 and the MM took cognizance and summoned the petitioner by the impugned order.

4. This petition has been filed on behalf of petitioner, who contends that he was a former partner, in the said partnership firm, M/s Jaykisan Agro, from 2017 till 2019, and he retired from the firm and a new partner, the wife of Mr. Desai, was inducted.

5. In support of this, he has appended the Partnership Deed dated 25th January 2019, a copy of the Shops and Establishment Registration Certificate (Form-C), the updated record from the Registrar of Firms, Baroda Circle, a copy of letter sent by petitioner to Federal Bank and a copy of the letter sent on 26th August 2019, to the Regional Business Manager of Escorts Limited, Ahmedabad.

6. Counsel for respondent, who appears and accepts notice, states that they have absolutely no communication, ever since the issue of cheque in question, about change of partnership, and that they wish to verify the records.

7. Respondent no.2 is the authorised representative ('AR'), of respondent no.1 Company, and there is no purpose, for him to be arrayed independently. In any event, respondent no.1 will be represented through its AR. Accordingly, respondent no.2 is deleted from the array of parties; amended memo of parties be filed by the petitioner.

8. Accordingly, response be filed by respondent no.1 with a copy to the opposing counsel.

9. List on 29th November 2024.

10. Order be uploaded on the website of this Court.

ANISH DAYAL, J

NOVEMBER 8, 2024/sm/kp