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

+ **CRL.M.C. 8926/2024 & CRL.M.A. 34165/2024**

SAI PRECIOUS TRAEXIM PVT LTD AND ORSPetitioners

Through: Ms.Pratiti Rungta and Mr. Sumit
Pargal, Advs.

versus

AKASA FINANCE LIMITED

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

17.01.2025

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1. The present petition has been filed under Section 528 BNSS seeking setting aside of summoning order dated 24.08.2024 passed by learned JMJC, NI Act-06, Central District, Tis Hazari, in CC NI Act 8044/2023 whereby the petitioners/accused were summoned to stand trial under 138 of NI Act.
2. Learned counsel for the petitioners submits that the case of the respondent in the complaint is that a cheque dated 09.08.2023 was issued by the petitioners in favour of Pooja Finlease Ltd. She submits that prior to the date of said cheque the name of the respondent company had already changed to Akasa Finance Limited.
3. She further submits that when the complainant/respondent was confronted by the Court with regard to this fact, on 03.01.2024, they sought to amend the complaint. The application for amendment was thus, filed by



the respondent/complainant, which was allowed by the learned Metropolitan Magistrate *vide* order dated 24.08.2024.

4. She submits that in the amended complaint, the stand now taken is that the cheque was given was a security cheque, which averment is conspicuously absent in the complaint originally filed.

5. She submits that the change of stand is not permissible by making an amendment in the complaint in as much as the same causes prejudice to the present petitioner.

6. In support of her submission, she has placed reliance on the decisions of the Hon'ble Supreme Court in **(i) *S.R. Sukumar vs. S Sunaad Raghuram*, (2015) 9 SCC 609** and **(ii) *Munish Kumar Gupta vs. Mittal Trading Company* (2024) SCC OnLine SC 1732**.

7. In view of the above, issue notice to the respondent by all permissible modes, returnable on 07.04.2025.

8. In the meanwhile, the Trial Court is directed to defer the proceedings of the complaint case to a date after the next date fixed before this Court.

VIKAS MAHAJAN, J

JANUARY 17, 2025
N.S. ASWAL