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

+ **CRL.M.C. 1696/2024 & CRL.M.A. 6523/2024 (Stay)**

SAURABH SHARMA

..... Petitioner

Through: Mr. Sumit Nandvani, Advocate
(through VC).

versus

PRESIDIO SECURITY GROUP LLP

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

29.02.2024

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CRL.M.A. 6522/2024 (Exemption)

1. Exemption allowed, subject to just exceptions.
2. The application is accordingly disposed of.

CRL.M.C. 1696/2024 & CRL.M.A. 6523/2024 (Stay)

3. The present petition under Section 482 of the CrPC seeks the following prayers:

“i. Quash the Complaint Case CC NI ACT/6389/2022 for the offence w/s 138 Negotiable Instruments Act, 1881 titled as M/s Presidio Security Group LLP vs M/s Aarav International”, pending in the court of Ms Norma Jain, Ld. MM, South, Saket Courts, New Delhi U/s 138 of the Negotiable Instruments Act, 1881 along with all the proceedings emanating there from.

ii. Pass any other order or directions that this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in favor of the petitioner.”

4. Learned counsel for the petitioner submits that the latter entered into a



service agreement with the respondent. Thereafter, the petitioner continued to make payments for services rendered pursuant to the said agreement. It is submitted that various payments have been made totalling to Rs. 15,10,662/- till 26.04.2022. It is submitted that thereafter, the respondent filled in the particulars of a blank cheque given by the petitioner with a sum of Rs. 21,71,832/- and deposited the same with the bank. The said cheque dishonored on 25.07.2022 and the subject complaint was filed. The impugned summoning order was passed on 22.10.2022, whereby the petitioner was summoned to face trial under Section 138 of the Negotiable Instruments Act, 1881.

5. It is submitted that the subject cheque was issued only for the purpose of security and the debt owed had already been paid to the respondent. It is submitted that the cheque in question was not paid towards a legally enforceable debt and therefore, the petitioner cannot be prosecuted under Section 138 of the Negotiable Instruments Act.

6. Heard learned counsel for the petitioner and perused the records.

7. The present petition has been filed under Section 482 of the CrPC, invoking inherent powers of this Court, seeking to set aside the impugned summoning order and quash the subject complaint instituted on behalf of the respondent under Section 138 of the Negotiable Instruments Act.

8. It is settled law that the scope of enquiry in exercise of jurisdiction under Section 482 of the CrPC is limited. This inherent jurisdiction must be exercised sparingly and with great circumspection. It is pertinent to note that the issues raised by the petitioner are disputed questions of fact and at this stage, where parties have not led any evidence, this Court cannot embark upon a detailed examination of the same. The said disputed questions of fact



are before the learned Trial Court, to be adjudicated upon by the said Court after the parties have led evidence in support of their case.

9. In view of the above, this Court is of the considered opinion that no grounds for allowing the prayers in the present petition are made out.

10. The petition is dismissed and disposed of accordingly.

11. Pending applications, if any, also stand disposed of.

12. Needless to state, nothing stated hereinabove is an opinion on the merits of the case.

AMIT SHARMA, J

FEBRUARY 29, 2024/bsr