

Suresh Kumar Sharma Vs. M/S. Sree Sidh Woolen Industries

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Court : Delhi

Decided On : Mar-01-2013

Judge : G.P. Mittal

Appellant : Suresh Kumar Sharma

Respondent : M/S. Sree Sidh Woolen Industries

Advocate for Pet/Ap. : Mr. N.K. Chauhan

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI Date of decision:

1. t March, 2013 + CRL. M.C. 559/2012 SURESH KUMAR SHARMA Petitioner
Through: Mr. N.K. Chauhan, Adv. versus M/S. SREE SIDH WOOLEN
INDUSTRIES Through: Nemo. CORAM: HON'BLE MR. JUSTICE G.P.MITTAL
Respondent JUDGMENT G. P. MITTAL, J.

(ORAL) 1. The learned counsel for the Petitioner seeks permission to delete the names of Respondents No.2 and 3 from the array of parties as no relief is sought against them. Heard. Allowed.

2. The names of Respondents No.2 and 3 from the array of parties is deleted.

3. The Petitioner invokes the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) for quashing of the Complaint filed under Section 138 of the Negotiable Instruments Act, 1881 (the Act) filed against

him by Respondent No.1.

4. The case of the Petitioner is that he had nothing to do with the firm M/s. Shree Ram Garments & Furniture. According to the Petitioner he simply introduced Respondents No.2 and 3 (Respondents No.1 and 2 before the Trial Court) to M/s. Shree Sidh Woolen Industries (Respondent No.1). Some cheques purported to have been issued by Respondents No.2 and 3 before the Trial Court, were dishonoured and while filing a Complaint under Section 138 of the Act, the Petitioner was also impleaded as one of the Respondents.

5. None appears on behalf of the Respondent despite service. None has come forward on behalf of the Respondent to contest the Petition. Section 138 of the Act makes the drawer of a cheque liable to be prosecuted and punished under the Act, if the cheque is dishonoured on the ground that the credit of that account was insufficient to honour the cheque and further that the amount is not paid by the drawer of the cheque on service of the notice in terms of Section 138 of the Act. In case of dishonour of a cheque drawn by a company or a partnership firm Section 141 of the Act, makes its Directors or officers/partners vicariously liable if the said officer/Director or the partner was in charge of and responsible for the conduct of the business of the company/partnership firm.

6. A perusal of the cheques dated 23.03.2009 shows that one Raj Kumar was the drawer of the cheque.

7. In the instant complaint under Section 138 of the Act there is not even a whisper that the cheque was issued by a partnership firm of which the present Petitioner was one of the partners and that he was in charge of and responsible for the conduct of its business. Thus, the Petitioner could not have been prosecuted with the aid of Section 141 of the Act.

8. The Petition, therefore, must succeed; it is accordingly allowed. The complaint Case titled M/s. Shree Sidh Woolen Industries v. Mr. Raj Kumar & Ors. filed under Section 138 of the Act as against the present Petitioner is hereby quashed.

9. Pending Applications also stand disposed of. G.P. MITTAL, J.

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