



2025:DHC:2294



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

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Date of decision: 1st April, 2025

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CRL.M.C. 2150/2025

1. M/S R.S. INFRAWELL INDIA PVT. LTD.
THROUGH IT'S DIRECTOR SH. NIRAJ SINGH
SHOP NO. 308,309,
3RD FLOOR, MSX TOWER -I
GREATER NOIDA, G.B. NAGAR,
U.P-201308

ALSO AT

R/o A-08, SECTOR-19,
NOIDA-U.P- 201310

.....Petitioner No.1.

2. SH. NIRAJ SINGH
S/O SH. BIJENDER MALIK
R/o A-08, SECTOR-19,
NOIDA-U.P- 201310

.....Petitioner No.2.

Through: Mr. Areet Gaur, Advocate.

versus

M/S DEVVRAT IMPEX PVT. LTD.
THROUGH IT'S IT'S DIRECTOR SH. MAYANK PERIWAL
OFFICE AT- G-73 ,
SECTOR-6, NOIDA,
U.P- 20130I

.....Respondent

Through:

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)**CRL.M.A. 9680/2025 (Seeking Exemption)**



1. Allowed, subject to just exceptions.
2. The Application is accordingly disposed of.

CRL.M.C. 2150/2025

1. Petition under Section 528 of the *Bharatiya Nagarik Suraksha Sanhita, 2023* ('BNSS' hereinafter) has been filed for setting aside the Order dated 15.05.2024 vide which the prayer of the Petitioner (Accused) to get the documents relied upon by the Respondent/ Complainant sent for Forensic Analysis, has been rejected.
2. Briefly stated, Complaint case No.16320/2018 titled "*M/s. Devvrat Impex Pvt Ltd vs. M/s. R.S.Infrawell India Pvt Ltd*" has been filed under Section 138 N.I. Act by Respondent No.2 against the Petitioners in regard to dishonour of cheques on account of "*Drawers Signature differs*".
3. It is submitted that the Petitioners/accused entered their first appearance on 26.04.2022 and only then they became aware of the pending proceedings. The statement of the Petitioners was recorded under Section 251 of the *Code of Criminal Procedure, 1973* ('Cr.P.C.' hereinafter). The Complainant was duly cross examined and discharged on 11.01.2023; however, due to the illness of the Petitioner's counsel the cross examination could not be conducted on certain relevant aspects.
4. In the defence statement, the Petitioners have categorically denied the allegations made in the Complaint and have submitted that the cheques do not bear their signatures but were stolen from the site.



However, no defence evidence was led.

5. Subsequently, Application under Section 311 Cr.P.C was filed on behalf of the Complainant Respondent which was dismissed by the learned M.M on 15.02.2023, but was allowed by the learned Sessions Court in Revision on 12.12.2023, even though the statement of the Petitioners under Section 313 Cr.P.C had already been recorded. Thereafter, the Complainant was further cross-examined and discharged on 19.12.2023.

6. It is submitted that during the cross examination, Complainant has disputed allegations of manipulation of the signatures of the Petitioners accused on the cheques. For conducting a fair and just trial, it has become imperative to verify the disputed signatures on the Cheque in question. Consequently, Petitioners filed an Application under Section 311 Cr.P.C to seek verification and forensic examination of signatures on the cheque and Invoices, however, the Application has been dismissed by learned M.M on 19.12.2023 on the ground that it lacked material particulars as required under Section 311 Cr.P.C.

7. The impugned Revision Petition was filed against the said Order before the District and Sessions Judge which has been dismissed on 29.11.2024 as not maintainable on the ground that no revision lies against an Interlocutory Order.

8. The *impugned Order is challenged on the ground* that the learned M.M has failed to give opportunity to the Petitioners to



address the queries raised by the Court during the course of arguments on the Application, which has been dismissed on conjectures, surmises and presumptions which is impermissible in law. The learned M.M has failed to appreciate that the authenticity of the signatures on the Cheques and Receipts in question, are disputed and requires an intervention of an Expert Opinion of handwriting expert for just and fair adjudication.

9. The Petitioner has thus, sought setting aside the impugned Order dated 15.05.2024 and to permit the cheques to be forwarded for forensic examination of the signatures, by FSL.

10. **Submissions heard and record perused.**

11. The impugned cheques have been dishonoured *vide* Return Memo dated 14.09.2018 on the ground that “*Drawers Signature differs*”. It is the case of the Complainant itself that the dishonour of cheque was because the signatures did not match. This was the case which was known to the Petitioners accused from the date on which they got summons.

12. CW.1, Sh. Mayank Periwal was examined once after which the statement of the accused Petitioners was recorded under Section 313 Cr.P.C but even thereafter, they chose not to lead any evidence in defence. It is subsequent to further cross examination of CW.1, the Complainant that the Petitioners have claimed that new facts have emerged which have prompted them to file this Application for forensic examination of the signatures.



13. This ground is totally fallacious because the Complaint itself mentioned that the signatures differed. The accused/Petitioners were denying their signatures from the date of summoning and there is no explanation which is forthcoming to explain why the Application was filed belatedly, when the case was listed for final arguments.

14. Moreover, the accused Petitioners have chosen not to lead any evidence in support of their defence. Having chosen not to lead any defence, this Application is an endeavour in a circuitous way, to adduce the evidence, which cannot be permitted.

15. In the first instance, after the statement of the Petitioners was recorded under Section 313 Cr.P.C, final arguments were addressed and the case was reserved for Orders at which stage the Petitioners were permitted to further cross-examine the Complainant. Even thereafter, this Application under Section 311 Cr.P.C. had been filed when the matter was listed for final arguments. This Application was for sending the cheques for forensic examination of the signatures especially when the Memo of dishonour of the cheques, itself stated that the signatures differed.

16. The learned M.M has rightly rejected the Application under Section 311 Cr.P.C *vide* Order dated 15.05.2024. There is no merit in the present Petition which is hereby, dismissed.

**(NEENA BANSAL KRISHNA)
JUDGE**



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APRIL 1, 2025/va/rk