

Cr. Rev. No. 567/2023

Vandana Bhawsinka Vs. M/s Percision Mould and Dies Pvt. Ltd.

28.08.2023

Present : Sh. Rajan Chawla, Ld. Counsel for the revisionist.

Today, the matter is fixed for consideration on issuance of notice.

It is submitted by Ld. Counsel for the revisionist that before issuance of summons, the Ld. Trial Court was required to conduct inquiry under Section 202 CrPC.

Ld. Counsel has relied upon the judgment **Crl. Appeal No. 2484 of 2023 arising out of SLP (Crl.) No. 6318 of 2023 titled as Vishwakalyan Multistate Credit Co-operative Housing Ltd. Vs. Oneup Entertainment Pvt. Ltd.** It is submitted that as per this judgment dated 21.08.2023, Hon'ble Supreme Court held that inquiry under Section 202 CrPC shall be conducted in complaints under Section 138 of the NI Act, where the accused is residing outside the territorial jurisdiction of the court concerned.

It is observed that on Page No. 2, unnumbered Para No. 3 of the aforementioned judgment, Clause No. 3 of Suo Motu Writ Petition (Crl.) No. 2 of 2020 In Reference : Expeditious Trial of Cases under Section 138 of NI Act, 1881 is quoted. As per this clause no. 3, in suitable cases the Magistrate can restrict inquiry to examination of documents without insisting for examination of witnesses. (SIC).

It shows that for the purpose of conducting inquiry under Section 202 CrPC, the Magistrate is not necessarily required to examine witnesses. The said inquiry can be restricted to examination of documents only.

Let the TCR be summoned to ascertain whether the documents were examined to comply with the aforementioned Clause No. 3.

Put up on **05.09.2023** for further proceedings.

Rajinder Singh
ASJ-06/NDD/PHC/ND
28.08.2023

(R)