

ITEM NO.16

COURT NO.12

SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Crl.) No. 5485/2024

(Arising out of impugned final judgment and order dated 14-03-2024 in CRLMC No. 2094/2023 passed by the High Court Of Delhi At New Delhi)

RAJ KUMAR SANTOSHI**Petitioner(s)****VERSUS****PRASHANT MALIK****Respondent(s)**

(IA No.94325/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.94322/2024-PERMISSION TO PLACE ADDITIONAL FACTS AND GROUNDS)

Date : 23-07-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE C.T. RAVIKUMAR
HON'BLE MR. JUSTICE SANJAY KAROL

For Petitioner(s) Mr. Manan Kumar Mishra, Sr. Adv.
Mr. Durga Dutt, AOR
Ms. Anjul Dwivedi, Adv.
Mr. Rohit Priyadarshi, Adv.
Mr. Ajay Kumar, Adv.
Mr. Priyanshu Upadhyay, Adv.
Mr. Sai Girdhar, Adv.
Ms. Rashi Verma, Adv.
Mr. Pradeep Yadav, Adv.

For Respondent(s) Mr. Vijay Kumar, Adv.
Mr. Jai Pal Singh, Adv.
Mr. Dhiraj Kumar, Adv.
Mr. Avinash Kr. Lakhanpal, AOR

UPON hearing the counsel the Court made the following
O R D E R

We have taken this extraordinary step in this matter taking note of a growing menace to the society. Lending money on interest without any license therefor, and on some security like cheques

or title deeds of property partake a character not, in essence, different from 'money lending business'. The definition under the Punjab Registration of Money Lenders Act, 1938 (for short 'the Act') will not take an instance of lending money for interest on accepting some security such as cheques or title deeds of a property within the sweep of business of money lending. In other words, in order to constitute such action as 'business', the person concerned must have been effecting continuous transactions of such nature. More than four and a half decades ago a Constitution Bench of this Court in *Fatehchand Himmatlal & Ors. v. State of Maharashtra* [(1977) 2 SCC 670] held thus:-

"... The bulk of the beneficiaries are rural indigents and the rest urban workers. These are weaker sections for whom constitutional concern is shown because institutional credit instrumentalities have ignored them. Moneylending may be ancillary to commercial activity and benignant in its effects, but Moneylending may also be ghastly when it facilitates no flow of trade, no movement of commerce, no promotion of intercourse, no servicing of business, but merely stagnates rural economy, strangulates the borrowing community and turns malignant in its repercussions."

We may add that the Shylockian attitude sans shame continues in such instances and more often that not, despite repaying the amount actually advanced, the borrower is constrained to pay sometimes double the amount or more, towards interest. To fall outside the purview of money lending business laws, prudently (or cunningly?) some such lenders avoid continued transaction and give huge loans only for interest, intermittently. In the case on hand the respondent's case is that as friendly loans, he advanced loans to the petitioner of a total sum of Rs.85 lakhs on different dates and different modes such as:

- "a. Amount of Rs. 10,00,000/- Through RTGS on dated 31.01.2018,*
- b. Amount of Rs. 10,00,000/- Through RTGS on dated 03.02.2018,*
- c. Amount of Rs. 5,00,000/- Through RTGS on dated 05.02.2018,*
- d. Amount of Rs. 5,00,000/- Through RTGS on dated 12.02.2018,*
- e. Amount of Rs. 5,00,000/- By Cash on dated 07.06.2018,*
- f. Amount of Rs. 5,00,000/- By Cash on dated 09.06.2018,*
- g. Amount of Rs. 5,00,000/- Through RTGS on dated 31.10.2018,*
- h. Amount of Rs. 20,00,000/- By Cash on dated 26.02.2019,*
- i. Amount of Rs. 20,00,000/- By Cash on dated 27.02.2019,"*

We are coming across cases where such so-called friendly advances are in crores. We are mainly peeved and pained by instances where ordinary laymen take such loans and are at last driven to streets or driven to commit suicide, on account of lenders entertaining Shylockian attitudes. We will regulate such instances and rescue the hapless who happen to borrow loans and then are doomed in debts. In cases where huge amounts involve such as Rs.50 lakhs as also in crores, besides overreaching of the provisions under money lending laws huge evasion of tax may also involve.

We *suo motu* implead Union of India and NCT of Delhi, represented by its Chief Secretary, as parties to this proceedings.

Issue notice, returnable on 23.08.2024.

Interim order to continue till the next date of hearing.

(SNEHA DAS)
SENIOR PERSONAL ASSISTANT

(MATHEW ABRAHAM)
COURT MASTER (NSH)