

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

+ **Crl.M.C No.2356/2008**

% **Date of decision : 25.07.2008**

Shri S.C.Rastogi Petitioner
Through: Mr.D.K. Rustagi, Advocate.

Versus

M/s.Ridhi Enterprises & Anr Respondents
Through : Nemo.

CORAM :-

* **HON'BLE MR. JUSTICE ANIL KUMAR**

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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The petitioner has challenged the order of learned Metropolitan Magistrate dated 29th April, 2008 fixing the next date as 26th November, 2008 for Complainant's Evidence.

The petitioner impugns the order on the ground that the Revision Petition was filed by the respondent, being Criminal Revision No. 1/2007, which was disposed of by Sh. H.S. Sharma, Additional Sessions Judge by order dated 7th February, 2008 holding that since it

is an old complaint as it was filed on 19th May, 1994 and as it pertains to dishonour of cheques, the learned trial Court should make earnest endeavour to dispose of the matter as expeditiously as possible and preferably within six months from 14th October, 2008.

Though, the Revisional Court had observed that the learned trial Court should make earnest endeavour to dispose of the matter as expeditiously as possible, preferably within six months from 14th February, 2008, however, the said order cannot be construed as the direction given to the learned trial Court to dispose of the complaint of the petitioner positively within six months.

Judicial notice can be taken of the fact that lakhs of Criminal complaint regarding dishonour of cheques are pending before the trial Court. It has also come to the notice that in some of the Courts dates after twelve to sixteen months are being given in the cases under section 138 Negotiable Instruments Act.

In the case of the petitioner, the matter was adjourned on 29th April, 2008 for the Complainant's Evidence to 26th November, 2008 after the order by the Revisional Court dated 14th February, 2008 was passed. In the circumstances it cannot be inferred that the order of the Revisional Court has been ignored and violated by the MM. The date

has been given by the MM considering the order of the Revisional Court and the pendency of cases before him.

In the circumstances, I do not find any such irregularity or manifest error for the correction of which this Court should exercise its jurisdiction under Section 482 of the Criminal Procedure Code. The learned Metropolitan Magistrate has fixed the case for Complainant's Evidence after considering the pendency of various matters before him and it will not be appropriate for this Court to direct the trial Court to dispose it within six months. If it is not possible for the trial Court considering the pendency of the matters before it, to dispose of the matter within six months, it will not be appropriate to direct him to decide it within six months. If other cases are pending which also require early disposal, preference to the case of the petitioner cannot be given without hearing the other parties. In the circumstances, it will not be appropriate to give any direction to the MM to dispose of the matter within six months.

In these facts and circumstances, the petition is without any merits and is, therefore, dismissed.

July 25th , 2008

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ANIL KUMAR, J.