

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C.No.2548/2008**
% **Date of Decision: 07.08.2008**
Ramesh Nagpal Petitioner
Through Mr.Kumar Sushobhan, Advocate
Versus
State & Another 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 dated 3rd July, 2008 of the Metropolitan Magistrate dismissing his application under Section 311 of Criminal Procedure Code for calling the witness from Central Bank, Kashmere Gate Branch.

The petitioner has filed complaints against the respondent No.2 under Section 138 of Negotiable Instruments Act. The petitioner allegedly advanced Rs.9.00 lakh to the respondent No.2 whereas the respondent No.2 in her statement under Section 313 of the Criminal

Procedure Code admitted that only Rs.5.00 lakh had been advanced as loan by the petitioner.

The evidence was led by the petitioner and the respondent No.2 accused and after the final arguments were concluded by the accused and the lacunas in the case of the petitioner were pointed out, the complainant/petitioner filed the application for calling the witnesses from Central Bank, Kashmere Gate Branch.

Perusal of the application under Section 311 of the Criminal Procedure Code does not make out a case for calling the said witness after conclusion of the evidence of the petitioner and as to why the said witness could not be called by the petitioner before conclusion of arguments in the case.

In the circumstances, the decision of the learned Metropolitan Magistrate dismissing the application of the petitioner with costs cannot be faulted. There is no such manifest error or illegality in the order dated 3rd July, 2008 which shall entail interference by this Court in exercise of its jurisdiction under Section 482 of the Criminal Procedure Code. The petition is without any merit. The petition is, therefore, dismissed.

August 07th , 2008.
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ANIL KUMAR, J.