

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

Date of Reserve: November 16, 2010

Date of Order: 22nd November, 2010

+ Crl.M.C.No. 3192/2010

%

22.11.2010

Neera Aggarwal

... Petitioner

Through: Mr. Randhir Jain, Advocate &
Mr. Deepak Aggarwal, Advocate

Versus

Y.K.Goel

... Respondent

Through: Mr. D.K.Mehta, Advocate

+ Crl.M.C.No. 3193/2010

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JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

These three petitions have been filed by the petitioner assailing orders dated 28th September, 2010 passed by the learned ACMM whereby NBWs of the petitioner were issued in criminal complaints under Section 138 of Negotiable Instruments Act since petitioner refused to appear in person before the trial Court despite issuance of summons and despite service of Bailable warrants. The

contention of the Counsel for the petitioner is that the name of the accused was shown in the complaint as Meera Aggarwal but the name of the petitioner was not Meera Aggarwal but it was Neera Aggarwal. The petitioner put appearance and took bail before the trial Court as an abundant caution to apprise the trial Court of the correct facts that she was being dragged in case under Section 138 NI Act for no rhyme and reason. After obtaining bail the petitioner had been moving applications seeking disassociation of the case on the ground that she was not connected with the case in any manner and she had made application to this effect to the Court. The trial Court instead of deciding application and discharging her, insisted upon her appearance. The petitioner had also filed a petition before this Court for quashing of complaint on the similar ground.

2. A perusal of record would show that the complainant mentioned the name of the petitioner as Meera Aggarwal with her husband's name as Pradeep Aggarwal and residence as 56, Mohit vihar. The documents filed by her confirm that her husband name and address were the same. This fact was brought to the notice of the trial Court and trial Court gave liberty to the complainant to correct the name. The trial Court after considering documents and involvement of Neera Aggarwal directed the appearance of the petitioner for taking notice under Section 251 Cr.P.C. The petitioner/applicant instead of taking notice under Section 251 Cr.P.C. and putting her defence before the trial Court had been insisting upon the trial Court that she should be discharged. To similar effect the petitioner had moved a petition before this Court for quashing of complaint. This court had dismissed the petition of the petitioner laying it down categorically that the proceeding under Section 138 of NI Act were of summary nature and if any accused had a valid defence, the same could be put before the trial Court only after taking notice under Section 251 Cr.P.C. and by making an application and not before taking notice under Section 251 Cr.P.C. The trial Court was bound to follow the directions given by this Court and could not proceed as per whims and fancies of the petitioner. The petitioner earlier also had

evaded appearance and Non-Bailable warrants of the petitioner were issued and the petitioner approached this Court against issuance of NBWs. The plea taken by the petitioner was that marriage of her daughter was fixed on 7th February, 2010 and she was not in a position to appear but the Court issued NBWs. This Court keeping in view the averments had stayed the issuance of NBWs thereafter the petition filed by the petitioner for quashing of complaint was dismissed. The petitioner thereafter was supposed to appear before the trial Court take notice and put her defence before the trial Court in terms of the judgment of this Court but the petitioner instead of taking notice under Section 251 Cr.P.C. and allowing the proceedings to proceed further seemed to bent upon to prolong the proceedings.

3. I find no merits in the petitions. The petitions are hereby dismissed with costs of Rs.10,000/- in each petition. The costs shall be payable to the respondent/complainant.

November 22, 2010
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SHIV NARAYAN DHINGRA, J.