

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

Date of Order: 15th November, 2010

**+Crl. Rev. P. 719 of 2010 with
Crl. M. (Bail) No. 1567/2010 &
Crl. M.A. No. 17313/2010**

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15.11.2010

SH. SUBHASH CHANDER GOEL

... Petitioner

Through: Mr Yogesh Chhabra, Advocate

Versus

STATE GNCT OF DELHI & ANR

... Respondents

Through: Mr. Sunil Sharma, Addl. PP for the State

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?

ORAL

This petition has been filed against the order of learned Additional Sessions Judge upholding the conviction of the appellant under Section 138 of N.I. Act.

2. The petitioner was a member of the co-operative society and had availed a term loan of ₹ 2.00 lakh. Thereafter he did not pay back this amount. The matter was referred to arbitration and an award was passed against the petitioner. The petitioner still did not pay the amount and the award became executable decree as the award was not challenged. When execution of the award was carried, the petitioner handed over a cheque for the decretal amount. This cheque on presentation got bounced and the complainant filed a complaint under Section 138 of N.I. Act. The petitioner took a plea before the court below that the cheque was issued under coercion as the petitioner was facing threat of civil imprisonment for non

satisfaction of the award. The defence of the petitioner was rejected and the petitioner was convicted by the court of MM. The appeal of the petitioner against the order was dismissed.

3. In the present petition, the petitioner has assailed the order of learned ASJ on the ground that the learned ASJ wrongly interpreted the meaning of debt as mentioned in Section 138 of N.I. Act and the meaning of debt has to be interpreted as the actual liability as on the date of issuance of cheque and not cheque amount.

4. I consider the plea taken by the petitioner is absurd. The petitioner had issued the cheque against the decretal amount. Decretal amount was the liability of the petitioner and since the cheque got dishonoured and he did not pay the amount of cheque despite a demand notice, the petitioner was rightly convicted under Section 138 of N.I. Act by the Trial Court.

5. I find no reason to entertain this petition. The petition is hereby dismissed.

15th November, 2010
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SHIV NARAYAN DHINGRA, J.