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

+ CRL.M.C. 3232/2011

RAHUL AHUJA

..... Petitioner

Through: Mr.Harjinder Singh Thethi,
Advocate.

versus

POONAM WADHWA

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

ORDER

% **23.11.2011**

1. By virtue of the present petition u/s 482 Cr.P.C. the petitioner has challenged the order dated 30.11.2010 passed in criminal revision petition No.5/2010 titled Rahul Ahuja Vs. Mrs. Poonam Wadhwa.
2. Briefly stated, facts of the case are that a Poonam Wadhwa filed a complaint against Rahul Ahuja u/s 138 Negotiable Instruments Act on account of the bouncing of a cheque of ₹80,000/- purported to have been issued by Rahul Ahuja in discharge of his debt/liability. After appearance of the accused Rahul Ahuja the respondent/complainant had filed her affidavit by way of evidence on 24.04.2009 in the presence of the petitioner/accused and her cross-examination was also

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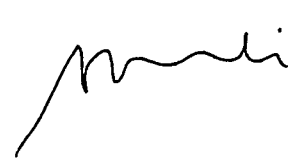
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conducted on the next date of hearing i.e. 01.06.2010. The statement of the accused was thereafter recorded and the accused was also directed to adduce his defence evidence. It is at that stage that the petitioner/accused filed an application u/s 293 r/w 311 Cr.P.C. seeking summoning of four witnesses one of whom happens to be Rajesh Kumar examined on behalf of the respondent/complainant. Although the application of the petitioner/accused was allowed so far as three witnesses were concerned but the learned Magistrate rejected the prayer of the petitioner/accused for recalling complainant for the purpose of further cross-examination. The reason given by the learned Magistrate dismissing the application was that the petitioner/accused had ample opportunity to cross-examine the witness and therefore the petitioner/accused could not be permitted to recall the witness for the purpose of filling up lacuna or the perceived lacuna by him.

3. Feeling aggrieved by the said rejection order dated 11.01.2010 the petitioner/accused filed a revision before the Court of Sessions which culminated into the impugned order dated 30.11.2010 upholding the order of the learned Magistrate on the reason that apart from the delay of 34 days petitioner/accused could not be permitted to fill up the lacuna in his case by recalling the complainant for further cross-examination.

4. I have heard the learned counsel for the petitioner and have gone through the impugned order. I do not find any infirmity, illegality or any abuse of processes of law which would warrant this Court to pass an order other than which has been passed by the Court of Session. On the contrary it seems that the petitioner accused woke up from a slumber and putting spokes in the early disposal of the matter. It is evident from the fact that not only he had ample opportunity to cross-examine the complainant but also the fact that the present petition has been filed against the impugned order with a delay of 223 days. No reasonable explanation has been given either for the delay before the Court of Sessions or before this Court as to why this Court should exercise the extraordinary power vested u/s 482 Cr.P.C. The petition is without any merit and therefore same is dismissed.


V.K. SHALI, J

NOVEMBER 23, 2011

mr

