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39 to 68

*IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 2840/2011 and Crl.M.A.No.19196/2011

AXIS BANK LTD

..... Petitioner

Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

ALOK PRAKASH PANDEY

..... Respondent

Through : None.

+ CRL.M.C. 2841/2011

AXIS BANK LTD.

..... Petitioner

Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

PRAVEEN KUMAR ANAND

..... Respondent

Through : None.

+ CRL.M.C. 2842/2011

AXIS BANK LTD.

..... Petitioner

Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

SP SINGH

..... Respondent

Through : None.

+ CRL.M.C. 2843/2011

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been compared and the digital data is as per
the physical file and no page is missing.

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AXIS BANK LTD.

..... Petitioner

Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

MD NAZIM

..... Respondent

Through : None.

+ CRL.M.C. 2844/2011

AXIS BANK LTD.

..... Petitioner

Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

PRASHANT SHARMA

..... Respondent

Through : None.

+ CRL.M.C. 2845/2011

AXIS BANK LTD.

..... Petitioner

Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

PRATEEK SRIVASTAVA

..... Respondent

Through : None.

+ CRL.M.C. 2846/2011

AXIS BANK LTD.

..... Petitioner

Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

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versus

DHARMENDRA R.SALIAN Respondent
Through : None.

+ CRL.M.C. 2847/2011

AXIS BANK LTD. Petitioner
Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

SITA RAM CHAUHAN Respondent
Through : None.

+ CRL.M.C. 2848/2011

AXIS BANK LTD. Petitioner
Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

DIMPLE PURI Respondent
Through : None.

+ CRL.M.C. 2849/2011

AXIS BANK LTD. Petitioner
Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

SONU SHARMA Respondent
Through : None.

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+ CRL.M.C. 2850/2011

AXIS BANK LTD. Petitioner
Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

SAURABH NAGPAL Respondent
Through : None.

+ CRL.M.C. 2851/2011

AXIS BANK LTD. Petitioner
Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

PRITHVI RAJ MISHRA Respondent
Through : None.

+ CRL.M.C. 2852/2011

AXIS BANK LTD Petitioner
Through: Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

AMJAD KHAN Respondent
Through : None.

+ CRL.M.C. 2853/2011

AXIS BANK LTD. Petitioner
Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

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versus

RAVINDER PRATAP SINGH Respondent
Through : None.

+ CRL.M.C. 2854/2011

AXIS BANK LTD. Petitioner
Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

ANIL KUMAR TIWARI Respondent
Through : None.

+ CRL.M.C. 2855/2011

AXIS BANK LTD. Petitioner
Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

NEERAJ KUMAR Respondent
Through : None.

+ CRL.M.C. 2856/2011

AXIS BANK LTD. Petitioner
Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

SUNIL KUMAR GOEL Respondent
Through : None.

+ CRL.M.C. 2857/2011

AXIS BANK LTD. Petitioner

Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

MRIDULA JAIN Respondent

Through : None.

+ CRL.M.C. 2858/2011

AXIS BANK LTD. Petitioner

Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

KAPIL KUMAR Respondent

Through : None.

+ CRL.M.C. 2859/2011

AXIS BANK LTD. Petitioner

Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

MOHAMMAD ARIF HABIB Respondent

Through : None.

+ CRL.M.C. 2860/2011

AXIS BANK LTD. Petitioner

Through : Mr. Amit Tyagi and Mr.

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Anuj Chauhan, Advs.

versus

REKHA RANA Respondent
Through : None.

+ CRL.M.C. 2861/2011

AXIS BANK LTD. Petitioner
Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

NISHIKANT SHARMA Respondent
Through : None.

+ CRL.M.C. 2862/2011

AXIS BANK LTD. Petitioner
Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

ANKIT ARORA Respondent
Through : None.

+ CRL.M.C. 2863/2011

AXIS BANK LTD. Petitioner
Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

JANKI RAM BANSAL Respondent

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Through : None.

+ CRL.M.C. 2865/2011

AXIS BANK LTD.

..... Petitioner

Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

KUMUD MALIK

..... Respondent

Through : None.

+ CRL.M.C. 2866/2011

AXIS BANK LTD.

..... Petitioner

Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

RASHID KHAN

..... Respondent

Through : None.

+ CRL.M.C. 2867/2011

AXIS BANK LTD.

..... Petitioner

Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

SARVESH KUMAR

..... Respondent

Through : None.

+ CRL.M.C. 2868/2011

AXIS BANK LTD.

..... Petitioner

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Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

VIKAS CHANDRA PANDEY Respondent

Through : None.

+ CRL.M.C. 2869/2011

AXIS BANK LTD. Petitioner

Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

V CHANDRA SEKHAR NAIDU Respondent

Through : None.

+ CRL.M.C. 2870/2011

AXIS BANK LTD. Petitioner

Through : Mr. Amit Tyagi and Mr.
Anuj Chauhan, Advs.

versus

NARESH KUMAR Respondent

Through : None.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

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08.07.2013

Crl. MC 2840/2011

1. In February 2011, the petitioner Bank instituted 30

complaints under Section 138 of the Negotiable Instruments Act, 1881 in respect of the dishonour of cheques issued by the borrowers who had taken the loan from the Bank. The complaints were listed on 26th February, 2011 when the learned Magistrate fixed the complaints for recording of pre-summoning evidence on 5th April, 2011.

2. On 5th April, 2011, the petitioner sought time for pre-summoning evidence whereupon the learned Magistrate fixed the cases for 3rd May, 2011 and directed the Chief Manager/Regional Manager of the petitioner Bank to remain present in Court.

3. On 3rd May, 2011, the Chief Manager was not able to attend the Court as his wife was suffering from jaundice whereupon the learned Magistrate imposed cost of Rs.800/- per case and adjourned the cases to 7th June, 2011.

4. On 7th June, 2011, the Chief Manager of the petitioner Bank attended the Court but the learned Magistrate was not satisfied with the power of attorney of the petitioner bank in favour of the authorized representative of the Bank whereupon the learned Magistrate imposed further cost of Rs.1,500/- per case. The learned Magistrate further directed the copy of the order to be sent to the Chairman and Managing Director of the Petitioner Bank with a request to direct the concerned officers to prosecute the case diligently and a further direction that the copy of the action taken by the office of the Chairman be sent to the Court.

5. Aggrieved against the imposition of cost and passing of adverse remarks, the petitioner challenged the orders dated 3rd

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May, 2011 and 7th June, 2011 before this Court on the ground that the learned Magistrate had to consider at the stage of pre-summoning evidence as to whether the case has been made out for issuance of the summons to the accused and the learned Magistrate acted in excess of his jurisdiction by directing the presence of the Chief Manager as well as passing a direction that the Bank was not pursuing the matter diligently and it must be brought to the notice of the Chairman who should file the action taken report before the Magistrate.

6. On 19th July, 2011, the petitioner sought an adjournment on the ground that the petitioner has filed the petitions before this Court whereupon the learned Magistrate imposed further cost of Rs.2,900/- in each case.

7. Vide order dated 30th August, 2011, this Court stayed the proceedings of the learned Trial Court. Vide order dated 3rd August, 2011, this Court modified the said order and permitted the learned Trial Court to proceed further in the matters but no final order be passed. Vide order dated 19th October, 2012, this Court directed the learned Magistrate not to insist on the payment of cost and the submission of the action taken report.

8. On 19th January, 2013, the learned Magistrate recalled the orders dated 3rd May, 2011 and 7th June, 2011 with respect to the cost imposed and the action taken report upon statement of the petitioner that they would withdraw the petitions before this Court.

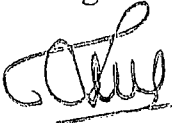
9. Learned counsel for the petitioner has placed on record the copy of the order dated 19th January, 2013 and the statements

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recorded by the learned Magistrate.

10. These petitions have become infructuous in view of the recall of the orders dated 3rd May, 2011 and 7th June, 2011 by the learned Magistrate on 19th January, 2013. The petitions are, therefore, disposed of as infructuous. However, this court is of the view that the learned Magistrate exercised his jurisdiction with material irregularity in directing the presence of the Chief Manager, directing the copy to be sent to the Chairman of the Bank and to call for the action taken report and repeatedly imposing cost on the petitioner. The learned Magistrate is advised to be careful in future.

11. Copy of this order be sent to the concerned Magistrate.


J.R. MIDHA, J

JULY 08, 2013

aj/dk